

STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)	Docket No. 97-AFC-1
)	
Application for Certification)	
for the High Desert Power Project)	
_____)	

COMMITTEE CONFERENCE

California Energy Commission
1516 Ninth Street
First Floor Hearing Room A
Sacramento, California 95814

Tuesday, March 3, 1998
10:00 a.m. to 3:20 p.m.

Reported and Transcribed by: Ramona Cota

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A P P E A R A N C E S

Commissioners Present:

JANANNE SHARPLESS, Presiding Member

ROBERT A. LAURIE

Staff Present:

STANLEY W. VALKOSKY, Chief Hearing Officer

ROSELLA SHAPIRO, Advisor to Commissioner Sharpless

SUSAN GEFNER, Acting Public Adviser

For the Staff of the Commission:

RICHARD K. BUELL, Siting Project Manager

DALE B. EDWARDS, Compliance Program Manager

CARYN J. HOUGH, Senior Staff Counsel

For the Applicant:

ALLAN J. THOMPSON, Law Office of Allan J. Thompson

WM. BUCK JOHNS, High Desert Power Project LLC

ANDREW C. WELCH, P.E., High Desert Power Project LLC

R.L. (RICK) WOLFINGER, High Desert Power Project LLC

For the Intervenor:

MARC D. JOSEPH, Adams Broadwell & Joseph
On behalf of California Unions for Reliable Energy (CURE)

For the Public:

STEVEN E. MAVIS, California Independent System Operator

GARY L. SCHOONYAN, Southern California Edison

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P R O C E E D I N G S

TUESDAY, MARCH 3, 1998 SACRAMENTO, CALIFORNIA 10:05 A.M.

COMMISSIONER SHARPLESS: Good morning, welcome to the Energy Commission. I would like to ask those who will be entering into the discussion today to perhaps take a seat at the table. We can make room for you. The ISO? Yes, we've got them, okay.

Before I begin with introductions just by way of background about this meeting: In it's scheduling order the Committee provided all parties the option to request periodic conferences as deemed necessary and the Applicant has so requested. The Committee accordingly scheduled today's Public Conference in a notice that was dated February 9, 1998.

So the purpose of today's conference is to provide the parties an opportunity to inform the Committee concerning the status of case development in the High Desert project; to discuss any potential delays or necessary schedule changes; and to allow the parties to discuss their prospective positions concerning the responses submitted last Friday, February 27th, to the questions that were posed by this Committee in its scheduling order.

The Applicant has also recently objected to certain data requests submitted by staff and CURE and if there are no objections the Committee intends to explore this matter as

1 well further on in the agenda. So before we begin with
2 discussing the process and the format and getting into the
3 substance of today's conference I'd like to start by
4 introductions. I will do so by introducing the Committee.
5 To my left, your right, is Commissioner Bob Laurie who is the
6 second on the Committee, the second member. To my immediate
7 left, Stan Valkosky who is the Hearing Officer for this
8 project. And to my right, your left, is Rosella Shapiro who
9 is my advisor. And I am Jan Sharpless, the Presiding Member
10 and Commissioner on the Energy Commission.

11 Perhaps we can start around the table, if you'll
12 start, and we'll identify the parties who are here today.

13 MR. MAVIS: Okay. I'm Steve Mavis representing the
14 California ISO and I'm the Regional Transmission Manager.

15 COMMISSIONER SHARPLESS: Thank you.

16 MR. WOLFINGER: I'm Rick Wolfinger, the Project
17 Manager of the High Desert Power Project.

18 MR. THOMPSON: Allan Thompson, Counsel to the High
19 Desert Project.

20 MR. BUELL: Rick Buell, Energy Commission Staff
21 Project Manager.

22 MS. HOUGH: Caryn Hough, Staff Counsel.

23 MR. EDWARDS: Dale Edwards, Energy Commission
24 Compliance Program Manager.

25 MR. JOSEPH: Marc Joseph, I represent the

1 California Unions for Reliable Energy.

2 COMMISSIONER SHARPLESS: Thank you. I believe we
3 also have -- Let me ask Stan. Stan, do we have our Public
4 Adviser here today? Susan Geffner is our Public Adviser and
5 I think that she's probably trying to get the lights on.
6 It's a new energy efficiency program we're trying out here.
7 Everybody is issued hats with little lights on them.

8 MR. THOMPSON: The state just needs more capacity.

9 COMMISSIONER SHARPLESS: Thank you, and you're
10 going to provide it, aren't you. Okay, as to the format. I
11 was going to mention that our Public Adviser is here to
12 answer any questions of the public and I'm sure Susan will be
13 around here. Also, if you wish to participate in today's
14 meeting by offering public testimony, if you could -- I
15 believe we have cards, don't we, Stan?

16 HEARING OFFICER VALKOSKY: The Public Adviser
17 should -- We'll just call them for public comment.

18 COMMISSIONER SHARPLESS: Okay, we will disregard
19 our usual procedure with the calls and we'll just call you
20 forward. As to the procedure: Each party will have an
21 opportunity to discuss the progress of the case in general as
22 well as to any potential delays or schedule changes it
23 believes appropriate. That will begin the sort of general
24 overview of where we are.

25 Next each party should summarize its specific

1 responses to the questions posed in the Scheduling Order on
2 the topics of Decommissioning and Closure, Transmission and
3 Project Configuration. Those are the three questions that we
4 asked in the Scheduling Order and the responses that were
5 done in the February 27th written responses. In addition to
6 the parties the Independent System Operator was requested
7 respond to the questions pertinent to the Transmission topic
8 and they are here to help us sort through that issue. Each
9 party should also indicate where it agrees or disagrees with
10 the responses submitted by other parties. And finally, Staff
11 and then CURE will be given an opportunity to address the
12 Applicant's objections to their respective data requests as
13 obtained in the Applicant's February 24th filing. Applicant
14 may then respond to each party.

15 Actually, that wasn't finally. This morning we
16 received yet another petition, this one being from Calpine
17 Corporation. It's dated February 27th, it has been docketed,
18 the docket date is March 2nd. So some of you may have seen
19 this or maybe not yet. The essence of their petition is as
20 to become an Intervenor in this case. As you know Calpine
21 also, I believe, is beginning an application before the
22 Commission on a project. I'm going to ask the Applicant. If
23 the Applicant has no objection to this petition the Committee
24 could act by putting out an Order immediately. However, if
25 you do have an objection to this petition we would request

1 that you write your reasons and provide it to the Committee
2 by Friday so we can respond to this request.

3 MR. THOMPSON: Madam Commissioner, we have no
4 problem granting Calpine's request. They were nice enough to
5 call us and tell us that they were going to do this. I guess
6 my only request would be if Calpine or their representatives
7 are here to inquire as to whether they want intervention
8 status or interested party status.

9 COMMISSIONER SHARPLESS: They have asked for
10 intervention in their petition. I don't know if there are
11 any Calpine representatives here. Are there any Calpine
12 representatives here?

13 MR. THOMPSON: Intervention it is, I think.

14 COMMISSIONER SHARPLESS: Yes, I think we'll have to
15 -- Yes, I would go with what their statement is in the
16 petition.

17 MR. THOMPSON: That's fine.

18 COMMISSIONER SHARPLESS: Okay.

19 HEARING OFFICER VALKOSKY: Susan is here now, the
20 Public Adviser.

21 COMMISSIONER SHARPLESS: Susan. Susan, I was
22 speaking to the Public Adviser. I wanted you to stand up and
23 identify yourself. If any public member has any questions
24 about the process or needs anything Susan is here to help
25 you. And, Susan, I don't know whether you have cards for

1 people who would like to sign up?

2 MS. GEFFNER: (Nodded affirmatively).

3 COMMISSIONER SHARPLESS: Susan does have cards for
4 those of you who would like to speak to any of the issues
5 today. This is not a real formal process, it's an informal
6 process, but we would like to know who you are and what issue
7 you would like to speak to. That helps facilitate our
8 process if you sign up on a card that Susan can provide you.
9 Okay, are there any questions so far? Yes.

10 MR. THOMPSON: If I may. I'm not sure that in
11 listing the things that we want to get done today whether you
12 mentioned the fact that the Applicant wanted this meeting to
13 address certain issues to the Committee. Mr. Wolfinger is
14 here, the Project Manager, with some slides he'd like to talk
15 from. I don't know where in the schedule you would want to
16 fit him in.

17 COMMISSIONER SHARPLESS: Well, the way that we have
18 set up the schedule for today--and as I say it's informal so
19 it's very flexible--is we have tailored it around the
20 questions that were in the Scheduling Order. So the specific
21 responses to Decommissioning and Closure, Transmission, and
22 Project Configuration, we thought we would take each one of
23 those issues, allow the applicant to state their position and
24 the staff and the intervenors, and when appropriate the ISO
25 on the transmission issue.

1 In the beginning we were going to have basically a
2 general overview of progress, potential delays and schedule
3 changes so I suspect that the Applicant could start their
4 presentation with that item and cover whatever issues that
5 they feel that they would like to present to this Committee
6 at that time. The last item on the agenda is the data
7 request issue and then we'll have any public comment that --
8 any other issues that the public might want to bring up, if
9 that's satisfactory. Does that offer you the window of
10 opportunity that you need to present the information you
11 wanted to present to the Committee?

12 MR. THOMPSON: It does and we view it as a large
13 window.

14 COMMISSIONER SHARPLESS: A large window, okay.
15 Well, we've got all kinds of window possibilities here in the
16 Commission so why don't we start with the Applicant on the
17 General Progress, Potential Delays and Schedule Changes. And
18 if at the end of your presentation you haven't yet covered
19 some of the tentative revised schedule issues perhaps you
20 will before you finish your presentation touch on the
21 schedule changes that were provided to you, I think for
22 review.

23 MR. WOLFINGER: I'm sorry, could you say that
24 again, the last sentence here.

25 COMMISSIONER SHARPLESS: There were some revised

1 schedule changes that are being proposed that deal with Fish
2 and Game, that deal with the Victor Valley Water District
3 Well Study.

4 MR. WOLFINGER: Right.

5 COMMISSIONER SHARPLESS: Those are extensions, and
6 then any other issues that you would like to bring up on the
7 schedule. But those and the two, March 9th and March 11th,
8 are two new items that have been inserted and those are
9 Applicant submit responses to CURE's data requests for March
10 9th and March 11th. Have they already done that?

11 MS. SHAPIRO: No.

12 HEARING OFFICER VALKOSKY: No.

13 COMMISSIONER SHARPLESS: Okay.

14 MR. THOMPSON: Before my client starts I am going
15 to apologize for a mistake that I made in reading the code
16 section on information, data requests and information flow, I
17 didn't read it carefully enough. It provides that 15 days
18 after receipt of the data request you're supposed to inform
19 the entity that made the request as to whether or not you
20 object or not and 30 days after the date of issuance. I
21 first read those as 15 and 30 days after the date of receipt.

22 We set everything in motion, engineers,
23 environmental management, to answer the CURE data requests.
24 We have talked about moving that date up but I fear it may be
25 closer to March 11 than March 9. I have most of them coming

1 in Friday night, Saturday morning and I don't know if we can
2 turn them around and review in time for March 9. And again,
3 my apologies for that.

4 COMMISSIONER SHARPLESS: So that would make both of
5 the -- the March 9th and the March 11th. I should explain to
6 the public. There is a tentative schedule revision out and
7 that's what we're speaking to. And copies are available on
8 the table, I think, out in the entryway there. Okay. So
9 what we're talking about is merely changing March 9th to
10 March 11th?

11 MR. THOMPSON: Yes.

12 COMMISSIONER SHARPLESS: Does anybody have a
13 problem with that?

14 MR. JOSEPH: We have no problem with that. I think
15 every counsel is entitled to at least one minor slip.

16 MR. THOMPSON: You mean this is my only one? I've
17 used it.

18 MR. JOSEPH: We'll keep score.

19 COMMISSIONER SHARPLESS: Any other objections to
20 that? Okay. Staff, we can accommodate that in the schedule?
21 Okay, fine, that change has been made and noted. So having
22 said that, Rick, would you like to --

23 MR. WOLFINGER: Yes. I'm going to use the overhead
24 in a minute here. I appreciate the opportunity to address
25 the Committee today on the status meeting and to bring up a

1 couple of topics. I think it's important that we have
2 dialogue and this gives us an opportunity to have a dialogue
3 with the Committee and with the staff and other interested
4 people in the public.

5 There are really three topics that I wanted to talk
6 about that I'm interested in pointing out to the group here
7 and there are a lot of other topics I think are going to be
8 talked about. The three main areas are air quality,
9 transmission and water and also, we're the first plant going
10 through the merchant plant program. And I wanted to talk a
11 little bit about process because I think that's probably
12 encumbered all of us as we're going down this road. This is
13 kind of a new era of how things are going. We talk about
14 lessons learned and how we go through it, because there is a
15 lot of policy being set here.

16 On air quality I think people are very interested
17 in where we stand on that. We have had interbasin trading
18 approved by CARB. That allows us to get our emission
19 reduction credits from the South Coast Air Quality Management
20 District to be used up at the High Desert Power Project.
21 They have been approved at 3.1 tons per ton of offsets that
22 we need. We also have identified all of the NO_x emission
23 credits. We've identified the NO_x in the Mojave Desert area
24 and we plan to respond, I think it's on December the 19th.
25 And our response to the Mojave Air Quality --

1 COMMISSIONER SHARPLESS: Excuse me, did you say
2 December 19th?

3 MR. WOLFINGER: March 19th.

4 COMMISSIONER SHARPLESS: March 19th.

5 MR. WOLFINGER: I'm sorry.

6 COMMISSIONER SHARPLESS: Okay.

7 MR. WOLFINGER: It was March 19th, I'm sorry if I
8 said December, excuse me. March 19th. And I think our
9 requirement for them was to show that there were 150 percent
10 credits that were available and for us to identify where
11 those were available by person. I think in yours it said a
12 letter of intent. That's not the requirement of the Mojave
13 agency. They require 150 percent, for us to identify 150
14 percent of the credits that we need to be available so we
15 could get them but not letters of intent.

16 COMMISSIONER SHARPLESS: What is the mechanism that
17 you use to identify?

18 MR. WOLFINGER: We've gone out and talked to the
19 people and determined what's available in the market. We
20 plan to identify all them on our submittal. Actually list
21 the name and the amount of tons that are available. Whether
22 they're part of already banked or whether they're expected to
23 be banked in the future, where they're coming from, those
24 type of things.

25 COMMISSIONER SHARPLESS: So could you just inform

1 me of the difference between that and a letter of intent. Is
2 that less --

3 MR. WOLFINGER: We don't have --

4 COMMISSIONER SHARPLESS: Is that less certain than
5 a letter of intent?

6 MR. WOLFINGER: Yes, we have not negotiated
7 necessarily price with these people nor have they, although
8 they have all said that they are willing to sell we have not
9 gotten a formal document saying that they will sell it to us,
10 okay. We've simply identified 150 percent of the offsets
11 that we need.

12 COMMISSIONER SHARPLESS: And what you're telling me
13 is that is in accordance with the air districts.

14 MR. WOLFINGER: That is my understanding, yes.
15 That's what we're planning on.

16 COMMISSIONER SHARPLESS: By the time you get to the
17 DOC though you need something more specific than that, don't
18 you?

19 MR. WOLFINGER: You know, I don't know,
20 Commissioner Sharpless. I can't remember specifically right
21 now if you need more than that or not. We'll have to
22 research that for you, I don't know specifically.

23 COMMISSIONER SHARPLESS: With respect to the date,
24 the March 19th date in our schedule, were we asking for a
25 letter of intent?

1 HEARING OFFICER VALKOSKY: Yes.

2 COMMISSIONER SHARPLESS: Is this a change from --

3 MS. HOUGH: Yes.

4 COMMISSIONER SHARPLESS: March 20th.

5 MS. HOUGH: The data request is for letters of
6 intent.

7 COMMISSIONER SHARPLESS: Okay.

8 MR. WELCH: Commissioner, if I may. In discussions
9 with the air district what they require is that we be,
10 demonstrate that we are in discussions with owners of 150
11 percent of what we need. The extra 50 percent, obviously, in
12 case we cannot negotiate, you know. They don't want a one-
13 to-one match-up if we don't have anything as far as an option
14 agreement so that 150 percent allows for some fall-through in
15 the negotiations. But for the DOC that is what their
16 requirement is and that's what they've checked against,
17 informed us that they've checked against the EPA
18 interpretation of the rules also.

19 COMMISSIONER SHARPLESS: Okay. Well, before we let
20 any further discussion go by the other parties I'm going to
21 let the Applicant go through their presentation.

22 MR. WOLFINGER: We have also identified that the
23 BOC emission reduction credits in the south coast, those
24 credits are not readily available although there are some up
25 in the high desert area, the Mojave desert area but we've

1 also identified them. The PM₁₀. That should be a small 10,
2 instead it looks like P-M-I-O, it should be a small 10.
3 We've identified them in the Mojave Desert also, primarily in
4 paving roads in the city of Victorville or in Adelanto.
5 We'll identify the road segments in those areas.

6 We're pretty good on the air quality. I think we're
7 on target. We've opened up -- As Andy my Project Director has
8 mentioned, we're in discussions with these people that have
9 them, we're discussing that. There are a couple -- There's a
10 particular area that I wanted to bring up in front of the
11 Committee and also in front of the staff and that is the
12 discussion of LAER and a technology called SCONO_x.

13 SCONO_x is a trade name of a company called Gold Line
14 Environmental where they have put a type of catalytic
15 conversion type of process on the back of an aero-derivative
16 jet engine, of a 22 megawatt machine, down in the south
17 coast. And they are out not just in California but all over
18 the United States saying that it's available for machines
19 that we're talking about of 160 or 230 megawatt sizes that
20 we're talking about and that it's available now with
21 commercial warranties and guarantees and those type of
22 things. We question that.

23 We're in the process of working with a number of
24 agencies to determine whether in fact that can really be
25 called LAER or not. If it is declared LAER, and everybody

1 thinks that's what it is, what we're looking at, and the
2 preliminary investigation comes in is that probably we could
3 not build the project because we could not get financing.
4 And by the way, that's just not the project at High Desert,
5 that's the Sutter Project, that's projects in the northeast
6 United States.

7 It's an area all over where you have a non-
8 attainment if in fact that became -- if in fact LAER is down
9 below say three-and-a-half or four PPM. If it's up at that
10 level and SCONO_x is in there then you can do that with SCR.
11 The key is that they're saying that there's a lower level of
12 NO_x control than presently is available with traditional SCR's
13 with ammonia injection. And that's getting to be a real
14 problem. So I want to bring that to the attention of the
15 Committee.

16 COMMISSIONER SHARPLESS: If I could ask you a
17 question along those lines.

18 MR. WOLFINGER: Sure.

19 COMMISSIONER SHARPLESS: Has US EPA established that
20 that technology is LAER?

21 MR. WOLFINGER: No, they have not yet but they're
22 very close to it. Matt Haber (phonetic) at EPA Region 9 has
23 written some letters of endorsement at three-and-a-half and
24 they're investigating NO_x, whether it's lower. It turns out,
25 by the way, that EPA really isn't the one that determines

1 LAER. They will eventually sign off on it but it's actually
2 -- The LAER standard itself is delegated down into CARB and
3 into the Air Resources Boards rather than at EPA. So it's
4 kind of a convoluted way that it works.

5 So South Coast right now is looking at two-and-a-
6 half PPM of NO_x. There is a meeting down in South Coast
7 tomorrow which we'll be represented at where they're looking
8 at two-and-a-half PPM of NO_x at 15 minute increments. There's
9 a meeting down there. So I want to bring this up. It's been
10 brought up in some of the meeting notes, I think, that the
11 staff has had also but I think it's something that we all
12 ought to pay attention to as to how this is going to affect
13 the viability of this particular project. It's something that
14 we should pay some attention to. That's pretty much where we
15 feel we stand on the air side of it.

16 Let me quickly go through the Transmission then
17 we'll get back to it. And these are kind of more general
18 comments rather than the comments we also made in our filings
19 that we made. And what's happened here is that we all have to
20 kind of -- at least we have put on a different mind set. And
21 by the way, this is kind of our thoughts on it and it's kind
22 of evolving and I'm interested to hear other comments from the
23 ISO and other parties here.

24 Our feeling is that a merchant plant is not
25 responsible to deliver the load to the load center, to

1 deliver the power to the load center. We have several
2 projects here in California, interconnection things, and we
3 pay capacity payments under SO-4 contracts. There are no
4 capacity payments right now that are being anticipated. And
5 so we're responsible though to get into the ISO grid but not
6 for the actual delivering of the load to the load center,
7 that's the ISO's responsibility.

8 We believe also we have equal access for both new
9 and old plants except for must-run facilities or ones that
10 have bought firm transportation service. And it was
11 interesting. We were with So-Cal Ed earlier in February and
12 it kind of struck home and they really -- it's really true.
13 In other words, the Coldwater plant, I believe they're in the
14 process of selling that, or any of their plants, have no
15 transmission rights to the grid at all any more than what
16 High Desert Project has. So the people in Arizona, unless
17 they bought firm transmission service, which none of them
18 have -- the Mojave coal plant for an example, I think that's
19 over in Nevada, if I'm not mistaken. Is the Mojave coal
20 plant in Nevada, Allan?

21 MR. THOMPSON: It's right over the line.

22 MR. WOLFINGER: Yes. that doesn't have any rights
23 to any transmission any more than we do in that whole deal.
24 So obviously load is getting into LA and we have the same
25 rate.

1 COMMISSIONER SHARPLESS: Is that issue more
2 directed at the issue of nondiscriminatory access than it is
3 to the reliability issue?

4 MR. WOLFINGER: Right.

5 COMMISSIONER SHARPLESS: Because we still have a
6 concern about reliability, regardless of the debate that goes
7 on about rights.

8 MR. WOLFINGER: Right. The point being is, is I
9 think one of the things later on that we mentioned -- We're
10 having a workshop tomorrow, unfortunately I'm not going to be
11 able to attend that, was you were looking for new applicants
12 to do all the engineering work for getting the power from
13 their power plant to the load centers. So I think it's
14 something in the applications that you're working on tomorrow
15 about that. And I don't think that's right, I don't think
16 that's an obligation. Isn't there something --

17 COMMISSIONER SHARPLESS: Could I just ask Staff?
18 Staff, I'm unaware of a workshop. Are we having a workshop?

19 MR. WOLFINGER: You have a meeting or something
20 tomorrow.

21 MR. BUELL: I have no plans for a workshop
22 tomorrow. No workshop has been noticed for tomorrow.

23 MR. WOLFINGER: There's a -- I have --

24 MR. BUELL: I'm sorry, I was reading something else,
25 I may have missed.

1 COMMISSIONER SHARPLESS: Maybe it's some other
2 branch of our organization that might be doing this but it's
3 not connected with the siting project.

4 MS. HOUGH: No.

5 MR. BUELL: Staff has not scheduled any workshop on
6 the High Desert Project.

7 MR. WOLFINGER: No, it's not for High Desert. This
8 is a generic change of the data requests for applicants, I
9 believe.

10 COMMISSIONER SHARPLESS: That would be Caryn and --
11 Caryn, are you aware of anything

12 MS. HOUGH: No, I'm not.

13 MR. WOLFINGER: Well, I'll try to give it to you.

14 MR. BUELL: Regulations?

15 MR. WOLFINGER: I read something, I thought. If I'm
16 mistaken --

17 COMMISSIONER SHARPLESS: I think that's something
18 that might be going on federally. Are you talking about the
19 article that -- Bob, are you aware?

20 COMMISSIONER LAURIE: No. It's a question of
21 whether -- The reference is to revised regulations to our
22 siting procedures.

23 COMMISSIONER SHARPLESS: The confidentiality issue?

24 COMMISSIONER LAURIE: Yes. The ones that have been
25 discussed and have been put forth for business meeting

1 approval.

2 MS. HOUGH: There are cleanup amendments on a
3 business meeting.

4 COMMISSIONER LAURIE: Yes.

5 MS. HOUGH: Is it for tomorrow?

6 COMMISSIONER LAURIE: Yes, I think so.

7 MS. HOUGH: I know to the siting regulations.
8 Those are cleanups from the last round. But there's nothing
9 that -- There's nothing substantive on them. There's
10 extremely minor changes designed to --

11 COMMISSIONER LAURIE: That's right.

12 MS. HOUGH: -- to make corrections to errors that
13 occurred when we adopted the last round in '93.

14 COMMISSIONER SHARPLESS: Maybe I could ask Rick
15 then. Rick, could you just --

16 MR. WOLFINGER: I want to --

17 COMMISSIONER SHARPLESS: Could you just recap what
18 the point is.

19 MR. WOLFINGER: The point was is I believe in
20 those, when it was being recalculated or redone is that it
21 said that the applicants should be responsible for doing all
22 the engineering effort of how to get power from this power
23 plant to the load centers.

24 MS. HOUGH: I don't believe there's any proposed
25 regulations up for adoption by the Commission that would say

1 that.

2 MR. WOLFINGER: Well, maybe I'm mistaken. I'll try
3 to find it. If I am I'm sorry to take up the time and do
4 that. But I'll come up --

5 COMMISSIONER SHARPLESS: I read something, however,
6 that has to do with the EIA information base.

7 MS. HOUGH: There's EIA information, a process
8 going along in which the Commission is considering filing
9 comments on March 31st along with a number of other parties.
10 That has to do with the kinds of information that would be
11 collected by EIA.

12 COMMISSIONER SHARPLESS: Information.

13 MS. HOUGH: And the first round of comments don't
14 even go to the question of what the information would be,
15 they simply go to the question of confidentiality.

16 COMMISSIONER SHARPLESS: Okay. Well, Rick, if you
17 can go back and find out if there's a connection. I'm pretty
18 sure that there's nothing happening this week on that issue.

19 MR. WOLFINGER: Okay, maybe I'm mistaken then.

20 COMMISSIONER SHARPLESS: It could be another
21 agency.

22 MR. WOLFINGER: Okay.

23 COMMISSIONER SHARPLESS: Okay?

24 MR. WOLFINGER: I do think a merchant plant is
25 responsible for any interconnection into the grid and any

1 resulting destabilization or reliability or whatever you want
2 to say. You know, there is an obligation, obviously, at the
3 merchant plant. But I don't think that we should be
4 responsible for, responsible for and/or study things like
5 congestion, the impact of operations on historical users or
6 the need for additional transmission lines to carry
7 additional load to the load centers. I don't think that
8 should be an obligation of the applicant nor should it be
9 part of the process, are kind of our general feelings on it.

10 COMMISSIONER SHARPLESS: Haven't you already
11 entered into, as of like February 17th, an agreement with
12 Edison on the study?

13 MR. WOLFINGER: Right here. Responsibility for
14 Interconnecting to the Grid and --

15 COMMISSIONER SHARPLESS: So bringing issues up such
16 as what should not be on such a study or responsibility of an
17 applicant is something that you've heard or is there --

18 MR. WOLFINGER: Well, I think there's -- There's
19 been a transmission workshop and some other things. I think
20 people are interested in a lot of these issues. I'm not sure
21 that the study that's going to come out is going to issue --
22 you know, is going to answer some of these questions that are
23 down here which are really not going to be part of our study
24 that we're doing with So Cal Ed. It's kind of like, it's
25 kind of our feeling to where it is.

1 COMMISSIONER SHARPLESS: Okay.

2 MR. WOLFINGER: I don't think we've reviewed yet
3 the scope of the study that So Cal Ed is doing. I think that
4 is, that's on one of the items. I think, Rick, we owe that
5 to you don't we, the work scope?

6 MR. BUELL: Yes.

7 MR. WOLFINGER: And that's something we'll -- I
8 guess we're going have that pretty soon, aren't we, Andy?

9 MR. WELCH: Yes, hopefully the end of the week.

10 MR. WOLFINGER: Yes. We'll be supplying that.

11 COMMISSIONER SHARPLESS: Okay.

12 MR. JOSEPH: Commissioner Sharpless?

13 COMMISSIONER SHARPLESS: Yes.

14 MR. JOSEPH: I don't know if you want any comment
15 here or not but I think the issue that Mr. Wolfinger is
16 referring to is if the High Desert Power Plant increases
17 congestion at a particular location. The issue is whether
18 this project should be responsible for the increased costs
19 which are imposed upon the system or not. Mr. Wolfinger
20 stated his position, he thinks they're not. The issue is, if
21 congestion is increased does that impose additional costs on
22 other users and the question is, who pays for that.

23 COMMISSIONER SHARPLESS: Well, doesn't that get into
24 the realm of the ISO?

25 MR. WOLFINGER: Right.

1 COMMISSIONER SHARPLESS: Whose realm is that?

2 MR. JOSEPH: The ISO will collect the costs but the
3 question is, who has to pay it.

4 MR. MAVIS: The ISO manages congestion, will manage
5 congestion and I think the issue here again is the
6 distinction between solving reliability problems. And where
7 congestion has been kind of in its own area it involves some
8 reliability concerns. But to managing it, we can get around
9 suffering any consequences because of the reliability
10 problems by being able to reschedule around that path and
11 take other operating procedures to mitigate any reliability
12 problems.

13 COMMISSIONER SHARPLESS: So the way it connects
14 into the siting process is not that we are going to determine
15 whether or not you ought to pay added costs for congestion
16 but the configuration of the transmission and whether there
17 will be other requirements on transmission modifications or
18 additions; is that what you're saying?

19 MR. MAVIS: Yes. I think the ISO's position right
20 now has been we'd like to be able to identify if there are
21 any -- if congestion has been exacerbated on the system and
22 flag it, then that would be some additional information. And
23 for our system operators to be able to incorporate that into
24 their congestion management processes. But we're not saying
25 necessarily that any mitigation measures of new facilities

1 have to be added to mitigate this.

2 COMMISSIONER SHARPLESS: Okay. We'll, we've laid
3 out an issue, thank you.

4 MR. WOLFINGER: One area, the other area that I
5 wanted to bring up specifically is water. Water is probably
6 the toughest issue to explain to the public. And quite
7 frankly, in my permitting of plants it's really the toughest,
8 it's the toughest issue of all in siting a plant is water
9 itself. We believe that we are located, and our water plan,
10 that it is a totally solvable one to allow wet cooling
11 towers.

12 We see really two concerns. One is a macro level.
13 Is the use of water in development or for housing, commercial
14 establishment power plants, versus agricultural. We're on a
15 macro level here. And I guess our feeling is, let the market
16 price of power dictate who uses the water, you know.
17 Basically, if water is valuable enough the farmers will sell
18 it and alfalfa will come from someplace else. It's pretty
19 valuable to High Desert. In our data requests we'll be
20 putting more in. Using water is very economical because of
21 the costs and the inefficiency of using dry cooling and the
22 effects on it. So we think that it's a good use of water at
23 a micro level.

24 And interesting enough, I want to just flip this
25 up. And it's in the packet I handed out, it's kind of

1 interesting. I am out of Baltimore and I get the Washington
2 Post and this happened to be an article that was run in the
3 Washington Post. And the interesting thing about the
4 Washington Post. You say, why are they talking about
5 California and the west? And the reason is, that the
6 Washington Post runs a lot of different articles. Basically
7 editorials to kind of like see, a sense of what is going on.

8 And basically what it really says down here is that
9 the western water problems are never going to be entirely
10 solved but you've got to work between the metropolitan areas
11 and the agricultural operations to really come to a
12 conclusion. I think that's really the case. There needs to
13 be some rationalization of the water on a macro level.

14 On a micro level, micro level being what's actually
15 happening up in the desert area itself. There's an aquifer
16 up there that's got about a 20 million acre/foot capacity and
17 about 10 million acre/feet in it now. And the concept is --
18 It's been adjudicated. The nice thing about where we're at
19 with the Mojave Water Agency is it has been adjudicated and
20 there's a court order of how to handle this thing.

21 And basically MWA, Mojave Water Agency, is in the
22 process of buying water and replenishing that aquifer. And
23 it's really the equivalent of a great big storage tank is
24 really what it is. The idea is to store water for future use
25 and to build it up, especially building it up when there's a

1 lot of excess water that might be inexpensive. And that's
2 really our idea too, is to fill this up with water and then
3 draw it down in times when the Mojave pipeline -- the
4 aqueduct is out.

5 I'm not positive but I'm pretty sure the Mojave
6 Valley uses about 120,000 acre/feet--and that's not fee, it's
7 feet--per year. I think natural replenishment is around
8 75,000 to 85,000 acre/feet and so it is, it's a deficit area.
9 And that's why they brought the aqueduct up there, that's why
10 they perk ponds, is to bring extra water in to make up the
11 whole 120 so you don't have depletion of the aquifer and you
12 can over-store it. And that's really what we plan to do and
13 that's what the Mojave Water Agency plans to do.

14 COMMISSIONER SHARPLESS: How do you plan to over-
15 store the reservoir?

16 MR. WOLFINGER: We just put more water in than
17 you're actually using.

18 COMMISSIONER SHARPLESS: So where is it going to
19 come from?

20 MR. WOLFINGER: You buy it off the State Water
21 Project when there's excess water.

22 COMMISSIONER SHARPLESS: So there's assumption that
23 you will be buying water out of the State Water Project.

24 MR. WOLFINGER: That's correct.

25 COMMISSIONER SHARPLESS: When it's available.

1 MR. WOLFINGER: Right.

2 COMMISSIONER SHARPLESS: At any price?

3 MR. WOLFINGER: Well, there may be times when --
4 Well, I'm not going to say that. What you try to do is you
5 try to overbuy it when the prices are low and you buy just
6 what you need when the prices are high. So in other words,
7 there's two mechanisms going on here. One is using State
8 Water Project, which we plan to use almost all the time,
9 directly right from the aqueduct right into the our power
10 plant and never go through putting it in the aquifer. But
11 when there's excess water and the prices are low what we plan
12 to do is put more water into the aquifer and build it up like
13 a storage tank so that times when we can't get State Water
14 Project -- Then actually the water level will be higher and
15 we'll be drawing it down.

16 But that's in essence what also the Mojave Water
17 Agency is trying to do. It's trying to raise the level of the
18 aquifer. It's been depleted over the last 20 years
19 because they didn't have perk ponds. And that's what their
20 process is. They've been doing it since 1991, I think it is.
21 And that's the whole intent, is to raise the whole aquifer
22 level. And in essence we'll only be using water -- We won't
23 be using any -- We'll be using the aquifer as a big storage
24 area, like a big tank. All the water we're going to be using
25 for our plant is going to come out of the State Water

1 Project.

2 COMMISSIONER SHARPLESS: is this something that's
3 currently under negotiation with the Victor Valley Water
4 District?

5 MR. WOLFINGER: It's actually with the Victor
6 Valley Economic Development Authority, they've now gotten the
7 water rights. Isn't that correct, Andy? They've got the
8 water rights for --

9 MR. WELCH: Yes, yes. They're going to be doing the
10 distribution on the base.

11 COMMISSIONER SHARPLESS: So you would enter into
12 some kind of commitment as to how much water you would be
13 supplying into the reservoir at certain periods of time.

14 MR. WOLFINGER: Yes. They would actually go -- We
15 negotiate with Victor Valley Economic Development Authority,
16 they would then enter into contracts with the Mojave Water
17 Agency. Also by the way, there was a Fluor error we found
18 out. When we started doing the data requests, people asking
19 us for alternatives, we found out that it appeared -- when we
20 started looking at it that the water consumption appeared to
21 be too high and in fact it is. It's about 25 percent higher
22 in the application than it really is so we're in the process
23 of submitting new data that will reduce the water consumption
24 of our plant by 25 percent. Nothing happened, it was simply a
25 miscalculation that Fluor did. We found that out so we're

1 correcting that. It's on the good side, we don't like to see
2 them go the opposite way.

3 Just a smidgen about process. We're going through
4 a process. I think open dialogue is good. I think the staff
5 has a lot of competency and has a great historical
6 perspective as we go into the merchant plant. I think more
7 of our -- More of the applicants are going to be from out of
8 state, certainly not local utilities that have the
9 perspective of having built plants and operated them for 30,
10 40, 50, 60 years here in the state.

11 I find it frustrating in being able to talk
12 candidly with the staff and try to kind of get a sense of
13 what's going on, what works and what doesn't work. We
14 certainly can talk to other agencies and not have this, it
15 seems to be this -- Not that we have open dialogue into the
16 public but it appears to be particularly cumbersome and
17 inefficient the way we seem to be going around. It seems to
18 be very stilted.

19 And I don't know what you can do to handle it. I
20 just want to bring it up that at least from an applicant's
21 perspective I like to see things happen more efficiently if
22 we're going to have more plants being permitted and you've
23 got more things coming. I just bring it up as a point. I
24 think it's important to have public hearings but I also think
25 that the process is being used to the detriment of the public

1 good and I think CURE is a classic example.

2 And I just want to say I think it's pretty tough
3 what they're doing. There's a magazine that came out called
4 Hard Hat Construction magazine, and this is in my
5 presentation. And they're really, you know, there's no
6 question. This is an article that came out and they're
7 talking all about our project and how they plan to use CURE
8 as basically trying to force their own agenda. And it will
9 be in here down at the bottom but basically what it says is,
10 basically it says: 'CURE will come to any future hearings
11 with the same position, this isn't Burger King, you don't get
12 it your way. You get it our way or you don't get the S.O.B.
13 at all.' I think that's a pretty -- That whole context sets
14 up the wrong kind of process for public dialogue and public
15 information.

16 COMMISSIONER SHARPLESS: Well, Mr. Wolfinger, I'd
17 like to interject here. The Committee is still in control of
18 the process; the Commission is still in control of the
19 process. The process does emphasize public participation.
20 CURE is a member of the public as Calpine Corporation will be
21 an Intervenor and anybody else who has a stake in the process
22 can participate in the process. We do the very best we can
23 to balance everybody's point of view.

24 I've seen articles on the other side with similar
25 kinds of tones that do not help the process. People do that,

1 I guess, to market their position. Whether you're an
2 applicant, whether you're an intervenor, you take sometimes
3 the most strident positions to make your point. I'm quite
4 used to that, quite frankly, and it's one of the reasons why
5 an open public process versus a process where individuals can
6 come to decisions in a closed process is more of a problem,
7 it's more problematic.

8 You raise the sort of stilted kind of process we
9 have where it's more difficult for you to go around and talk
10 to the public. I'm not precisely sure what that concern is
11 because I think our staff is very open. I believe that
12 you've had good meetings with Air Quality people, good
13 meetings with Water people, good meetings with Fish and Game
14 people. I'm not aware of any people that you haven't had
15 access to or open and frank and candid discussions. If
16 you're having problems with certain participants in this
17 process that sort of goes with the territory of a public
18 process.

19 MR. WOLFINGER: Well, that's not typical of other
20 regulatory agencies that we deal with, either in California
21 or outside. It certainly seems to be one that is very
22 apparent, at this particular agency, and I just -- I only
23 bring it up for process.

24 COMMISSIONER SHARPLESS: Well --

25 MR. WOLFINGER: It's only an observation on my part

1 and I just thought it was important as we're going through
2 this new process. Maybe more applications. I just thought it
3 was important to bring it up. That's the purpose of these
4 dialogues and to have dialogue, as a matter of fact.

5 COMMISSIONER SHARPLESS: That's right. And I
6 appreciate your point of view, however, having been in the
7 public process for more than 20 years I think that I've about
8 seen it all.

9 COMMISSIONER LAURIE: Madam Chairman.

10 COMMISSIONER SHARPLESS: Would you like to make any
11 comments, Bob?

12 COMMISSIONER LAURIE: I'm not sure I have an
13 understanding of the part of the process that is appearing
14 stilted.

15 COMMISSIONER SHARPLESS: Causing a problem.

16 COMMISSIONER LAURIE: Is it the problem that there
17 is not enough direct discussion with staff one-on-one? Is
18 that the problem you're speaking to?

19 MR. THOMPSON: Let me try my perspective on this.
20 The Code offers some fairly decent guidelines on prefiling
21 and prefiling workshops and there's a section in the code
22 that offers that the prefiling workshop will be a public
23 event. Without doing a publicly noticed workshop it is
24 possible for an applicant to be deemed to be in the public
25 arena because of a number of contacts over time, contacts

1 with the staff. And this is prior to filing. Not just prior
2 to data adequacy but prior to filing. And I guess in this
3 new world where you have competition between developers and
4 you have opposition, ready-made opposition, it's harder to
5 obtain the expertise of the staff in a more informal basis
6 then it would be without those elements being there.

7 Let me give one example. The staff has extensive
8 experience in every aspect that we look at and an applicant
9 at the beginning is trying to decide plant configuration and
10 location and water use and transmission and all the rest of
11 it, they're trying to determine what is the optimal project.
12 Not only from the project goals of the applicant but also
13 from a state perspective. You don't want to come into the
14 Commission here with a project that will not obtain approval.
15 You want to make sure that what you bring is an acceptable
16 project.

17 And it's harder to have contacts where, for
18 example, the staff Public Health person can say, here's a
19 list of the chemicals that were used here, my advice is to do
20 this or to do this. You'll run into less trouble with the
21 locals if you do this and this and this. Because if that is
22 done in a public forum and you reject some of those
23 suggestions it seems to me you're kind of setting yourself up
24 possibly for a lawsuit. You have to be much more tentative in
25 the public when you're trying to decide what this project

1 is going to look like. From my standpoint that's the issue.

2 It's a prefiling or maybe preacceptance issue.

3 COMMISSIONER SHARPLESS: But prefiling is what

4 we're past. We're past the --

5 MS. HOUGH: Correct. I'll just staff's perspective

6 on that. We don't look at the requirements as being

7 significantly different from prefiling to filing. In both

8 instances Applicant can provide information to the Energy

9 Commission staff, those are public records that anyone could

10 access. We can have workshops, those require a public notice

11 in both instances. There's informal contact that's allowed

12 to exchange information or discuss procedural issues, the

13 exact same language applies in both instances. The

14 difference is that once an application has been accepted the

15 public has a right to become an intervenor in the process and

16 become a party to the proceeding. That's the only

17 significant difference that I see.

18 COMMISSIONER LAURIE: So let me ask. I'm sorry,

19 Madam Chairman.

20 COMMISSIONER SHARPLESS: Yes, go ahead,

21 Commissioner Laurie.

22 COMMISSIONER LAURIE: And let me not use this

23 application specifically, Ms. Hough. If an applicant on a

24 project is thinking about an issue and in their own staff

25 meetings they come up with some possible alternatives to a

1 resolution of an issue and want to meet with staff to discuss
2 those on an informal basis do our rules permit an applicant
3 to come up and sit in staff's office and share ideas in a
4 private setting to discuss a particular element of a project
5 without any kind of public notice?

6 MS. HOUGH: The regulations don't address that
7 directly, what they say is that you can informally exchange
8 information and discuss procedural matters. Staff frequently
9 comes to me and says, do we have to have a noticed meeting to
10 discuss this issue or not. The rule of thumb that I use,
11 that other attorneys working on these cases use is: Are you
12 going to be resolving issues, are you going to be coming to
13 conclusions, are you going to be saying that something is
14 acceptable or not acceptable. Those kinds of discussions
15 have to happen in a public forum.

16 Now, the way we usually cover our bases, if I don't
17 think that's going to happen I can say, go ahead and do it
18 but we require a report of conversation to be in the docket,
19 it's available to all parties. If they've got concerns about
20 what's gone on they can contact us and request a workshop or
21 request a discussion and we can pick it up that way. There
22 is no bright line that tells me or the applicant what
23 requires public notice and what doesn't. Again, sort of the
24 way we try to approach it is to say, are you resolving issues
25 that are likely to be important in the case. Those

1 discussions have to happen in a public forum.

2 And that's the rule of thumb that we use. And
3 again, to try to cover our bases, if there's conversations
4 that occur that we don't think are going to that we
5 nonetheless write them up, put them in the docket, make them
6 available for parties to comment on or to request a workshop
7 to bring them back into a public discussion. That's the way
8 practically that we handle this issue.

9 COMMISSIONER LAURIE: Do you have that section
10 readily available that you're referring to?

11 MS. HOUGH: Yes, it's Section 1710 of Title 20. In
12 other words, there isn't really a -- there's no definition
13 anywhere of what a meeting is. And that's the crux, that's
14 really the crux of the matter. Obviously somebody can call
15 us up and ask us when a workshop is. Somebody can call us up
16 and we ask them if they got certain information. We
17 frequently provide information or references to people.

18 COMMISSIONER SHARPLESS: Is the applicant aware
19 that we cannot talk to Rick and his staff unless it's in a
20 public meeting?

21 MR. THOMPSON: Yes.

22 COMMISSIONER SHARPLESS: Are you aware of that?
23 That we as well are a party to the proceeding and we are
24 governed by ex parte communication with the siting staff so
25 that the siting staff's analysis and recommendations are

1 theirs. And when they come out with their decision in May.

2 MR. BUELL: Recommendations.

3 COMMISSIONER SHARPLESS: May 15th recommendations.

4 What did I say?

5 MR. THOMPSON: We'll take it as a Decision.

6 COMMISSIONER SHARPLESS: Recommendations. When
7 they come out with their Preliminary Staff Assessment on May
8 15th it is in fact the staff's assessment and the Committee
9 then commences hearings. The Committee Decision and
10 Recommendation to the larger Commission comes in a final
11 Committee Report. And that is the way the process is set up.

12 MR. THOMPSON: Let me give you -- Let me give you
13 an example of what we're talking about because I think it's
14 hard to visualize without an example. You can walk into the
15 Air District, and I've done this in more than one district,
16 and say, here's what we're looking at. We're looking at X
17 parts per million of NO_x and CO, what do you guys think. Gee,
18 you know, that's a little high. We would really like to see
19 you at this level and this level, what kind of averaging --
20 You know, we'll give you a little better averaging if you go
21 to this level, that kind of thing.

22 The applicant then can -- The applicant then can go
23 back and say, how can we configure our project so that the
24 Air District will not toss us out in the street the minute we
25 come in. You can't do that here. You can't come in --

1 COMMISSIONER SHARPLESS: But they're not in a CEQA
2 process, having been chair of the California Air Resources
3 Board for some nine years. There's a difference between a
4 regulatory process and a rule-making process and a siting
5 process, I can tell you that. We are governed by somewhat
6 different procedures under the APA, under the Administrative
7 Procedures Act. And there are certain things that perhaps
8 air districts do do that they shouldn't do but there is a
9 little bit more flexibility when what you're trying to do in
10 a regulatory process is determine proper standard points like
11 what should LAER be.

12 MR. THOMPSON: No --

13 COMMISSIONER SHARPLESS: And you're getting very
14 sensitive business information for which the staff can talk
15 individually to each company, oil companies. What should
16 reformulated gas be. Each company talked individually with
17 very sensitive information. That is not part of the public
18 process. But once the regulation is drafted and put into the
19 public domain that becomes very much part of the public
20 process. So I see a distinction.

21 MR. THOMPSON: I don't.

22 COMMISSIONER SHARPLESS: I see -- Well, but there
23 is. I see a distinction --

24 MR. THOMPSON: No, there isn't.

25 COMMISSIONER SHARPLESS: -- between a siting

1 process and what the law allowed the CEC to be, which is a
2 one stop shop for all of these agencies versus a regulatory
3 process. And I know it is frustrating because it's
4 frustrating for us as well, but there are tradeoffs in this
5 process. There's tradeoffs between the public being very
6 much involved in understanding the information and the
7 decisions made. Ultimately the bottom line is that the
8 decisions are made by the Committee and the Commission. Not
9 by the intervenor, not by the applicant, although the
10 applicant can make a business decision which affects the
11 permit. But the permit decision is made by myself and Bob
12 and the three other Commissioners that sit on this
13 Commission. Not intervenor, not staff, not applicant, not
14 anybody else and we make these tradeoffs. The best way for
15 us to make decisions is to hear all of the information,
16 assessment and analysis.

17 MR. THOMPSON: We are not -- And when I say we I
18 shouldn't say we because it has nothing to do with this
19 application. My frustration as a lawyer who has brought a
20 number of cases through this commission is the inability to
21 deal with the staff in a way that the applicant can gain
22 valuable information prior to filing. And I would submit
23 that the parallel between the air district and the CEC
24 process is that when something is filed at the air district
25 or something is filed at the CEC then the public process

1 kicks in. We have no complaints about what is done once
2 something becomes public.

3 MR. WOLFINGER: Right.

4 MR. THOMPSON: That's fine. And all we're saying
5 is that -- I believe, I'm going to say I. I believe that
6 prior to filing it would behoove applicants and the staff and
7 this Commission if there were a way that applicants can share
8 confidential information or project information to get a
9 feedback from those people in the state who probably know
10 most about the process and know most about what are
11 acceptable projects.

12 COMMISSIONER SHARPLESS: Okay. What you're talking
13 about is prefiling.

14 MR. WOLFINGER: That's correct.

15 MR. THOMPSON: That's exactly right.

16 COMMISSIONER SHARPLESS: And what I heard Rick
17 saying was something different. I didn't hear him talking
18 about prefiling, I heard him talk about the process, the
19 point of the process that we're in right now. And perhaps I
20 misunderstood you, Rick.

21 MR. WOLFINGER: Maybe I wasn't -- I was trying to
22 give an historical perspective of lessons learned, I mean.
23 We're in a part of it now which is fine where it is. I'm
24 just frustrated that I didn't have the use of the historical
25 and the knowledge of the staff prior to filing because I

1 couldn't hold candid discussions to figure out what I should
2 do and what I shouldn't do. It hasn't led to very efficient,
3 you know. My application wasn't very efficient.

4 And I think that there's a lot of knowledge but I
5 find it frustrating in the prefiling stage to have 14 days to
6 get things done. I mean, when you've got all these decisions
7 to go you'd like to, you know, kind of talk to these people
8 and say hey, you know, how does it work, how does it not
9 work. I didn't get that.

10 COMMISSIONER SHARPLESS: Well, since we're at a
11 different point in the process -- But you're very fortunate
12 to have brought this issue up because Commissioner Laurie
13 happens to be the Presiding Member on the Siting Committee
14 and the Siting Committee is responsible for the rules and
15 regulations and so forth that involve the siting process.
16 Perhaps this is information that his committee can use to
17 evaluate that part of our process.

18 Although, I am somewhat surprised because I have to
19 say that I was really under the impression that staff really
20 did offer that kind of assistance to an applicant. An
21 applicant, and I've known of some, who have come in a year
22 before filing or even longer before filing and have come in
23 and talked to the staff about our process and the
24 expectations. And sometimes the Applicant doesn't always
25 have the details of their facility concluded by when they're

1 talking to staff.

2 So maybe there's, you know, an element of issue
3 here that we can work on in another setting since it's past
4 where we are in this setting. We can get perhaps
5 Commissioner Laurie and his committee to look into some of
6 these issues and see if there needs to be any revisions or
7 modifications in the process.

8 COMMISSIONER LAURIE: Thank you, Madam Chairman.
9 In fact, I would want to do that. As you're aware my
10 professional background is as a land use attorney and I have
11 found over the multiple decades that I've been seeking to do
12 that work, candidacy is critical. Staff has to be able to be
13 candid. They have to be able to sit there in front of me eye
14 to eye and say that in their view my client, or in some cases
15 myself, are just a real jerk and the project we propose is
16 way out of sync with good planning theory. And I have found
17 that that kind of relationship is critical to a successful
18 process.

19 Local land use planning, however, is not subject to
20 the Administrative Procedures Act. It is something
21 different, it doesn't bind you so nearly. So on the one hand
22 we will comply with the law. You have my assurances that I
23 do intend to bring the issue up in our rule-making and assure
24 that we will take our authority under the law and allow that
25 kind of candid conversation to take place if it is not so

1 that applicants are provided full opportunity for, as you
2 say, an ability to receive staff's professional advice and
3 comment. So that is an issue that we will take up and I
4 appreciate your comments.

5 COMMISSIONER SHARPLESS: I would caution though,
6 and I can only imagine the position sometimes that the staff
7 might feel itself in if they are making candid comments about
8 choices. That they cannot put themselves necessarily in a
9 position to recommend or advise an applicant on a choice that
10 will necessarily guarantee them that that will be what the
11 staff would finally agree to. There's not sort of a, you
12 know, a guarantee that this candid conversation will result
13 in an approval by staff of the choices.

14 So there's kind of a fine line between being candid
15 and offering their professional opinion about things and
16 having the applicant say, but I talked to staff and staff
17 said at the beginning of the process if we did X, Y, Z, you
18 know, that they're pretty certain that this would be
19 something that would win approval. That sort of prejudges
20 the process. And if the process is open, an open assessment
21 and public process, then you want to make sure that you're
22 not putting the staff in a position which can later come back
23 and bite them.

24 MR. THOMPSON: I agree. Two things. Number one,
25 Keith Golden can speak volumes with one raised eyebrow. He

1 doesn't even have to speak to tell you whether he thinks
2 you're on the right track. I don't know if he's here or not.
3 (Laughter). The second thing is that oftentimes there's
4 confidential information about, not only about business
5 practices but about the equipment coming on-line and
6 pollution control equipment, that kind of thing that
7 applicants would like to talk to the staff. Thank you.

8 COMMISSIONER SHARPLESS: Okay, great.

9 MR. BUELL: Jan.

10 COMMISSIONER SHARPLESS: Yes.

11 MR. BUELL: For the record the staff would like to
12 point out that the staff has conducted at least two prefiling
13 workshops with this applicant prior to filing the
14 application. We have reviewed a number of different sections
15 of the draft, sections of the AFC that the applicant has
16 provided staff. We provided comments to the applicant
17 identifying our recommendations on where that document could
18 be improved.

19 So from our perspective we believe we have made an
20 effort to be candid with the applicant, to share our
21 expertise in a number of different areas with the applicant.
22 We would like to know specifically how the applicant would
23 like to improve the process in order for us to be more,
24 more --

25 COMMISSIONER SHARPLESS: Responsive.

1 MR. BUELL: Responsive. But generally we believe
2 we have been so on this project.

3 MR. THOMPSON: Rick, just let me comment briefly
4 then we can move on. I understand about the workshops. But
5 what the applicant is saying generically is something that I
6 absolutely concur with. Nothing beats an eye to eye meeting.
7 And workshops by public policy, which is something that I
8 fully concur with being open to the public, is essential to a
9 successful process.

10 I assure you, however, that to some extent public
11 meetings inhibit one to express their full utmost feelings
12 about a number of subjects. You just don't express yourself
13 in the same manner. So what the applicant is saying is, yes,
14 public workshops are great but they do sometimes result in
15 stilted discussions. And that is the price that we pay for
16 our public policies.

17 MR. THOMPSON: Let me add one thing. We applaud
18 the staff for what they have done with the information that
19 we have brought to them, but because the process is open
20 there are things we have not brought to them and I think
21 that's the issue that we're trying to get to. It's more of a
22 macro issue, it's not a this case issue.

23 COMMISSIONER SHARPLESS: But even before the public
24 workshops there's a pre-application period that doesn't
25 involve workshops, that involves applicants coming in and

1 talking to the staff. This is even before they say, we're
2 filing on April 15th. Rather they're in there saying, this
3 is a project, it looks like this, it's about so big and we're
4 thinking about having it over here, and some of the
5 characteristics of the project. What is our expectation,
6 what is your process, what do we need to do. And as far as I
7 know the staff has walked applicants through that process.

8 Now I don't know what has happened in this
9 particular instance and whether in this particular instance
10 because it is a merchant facility is any different from past
11 instances. But rather than belabor this point since we need
12 to get on with some of the other issues --

13 MR. WOLFINGER: Right.

14 COMMISSIONER SHARPLESS: I think suffice it to say
15 that we've had now a dialogue about the difficulties between
16 trying to design a facility that is suitable from a business
17 perspective and getting it through a public process. It's
18 not easy.

19 MR. JOSEPH: Commissioner Sharpless.

20 COMMISSIONER SHARPLESS: Yes.

21 MR. JOSEPH: I just wanted to respond very briefly
22 to Mr. Wolfinger's comments because this is a proceeding for
23 which a record is being kept. First I want to thank you for
24 your statements about the importance of the public process in
25 California. For the record, I have never heard of Hard Hat

1 magazine. I don't have any idea what they're talking about.
2 We've had absolutely no contact with any unions doing any
3 work at the parent facility, Baltimore Gas and Electric. I
4 have no idea where this article came from in *Working News*.
5 We did not solicit that article, and in fact, my reading of
6 it suggests it's more likely an article which comes from the
7 development side perspective. Thank you.

8 COMMISSIONER LAURIE: Is it correct that the
9 reference to the bottom paragraph of the article where it
10 says: 'The position being this isn't Burger King, you don't
11 get it your way, you get it our way or you don't get the
12 S.O.B. at all.' You do not recognize that as a quote coming
13 from your organization?

14 MR. JOSEPH: Absolutely not.

15 COMMISSIONER SHARPLESS: I think that just
16 underscores my point that in the media and public relations
17 world and tactics that we've seen occur, that I've become
18 very sensitive to ignoring, is that this happens. I don't
19 think we need to belabor it but to basically remember that at
20 least from this proceeding I think that everybody has
21 conducted themselves very professionally. And I would
22 express my appreciation for the professionalism that all
23 parties, Applicant, Intervenor and others, have had in this
24 process. And what goes on in the media world, as we know, *Wag*
25 *the Dog*, don't believe it.

1 Okay, let's go on to the next. Staff. Staff, your
2 opportunity for general progress, potential delays, schedule
3 changes and reactions to what has been said.

4 MR. BUELL: I'd like to start off by saying I think
5 that the process has been working very well up to this time
6 from the staff's perspective.

7 COMMISSIONER SHARPLESS: We need to roll that cue
8 board back a bit.

9 MR. BUELL: The applicant has either provided
10 responses to staff's data request or provided an alternative
11 due date which has been acceptable to staff. We still
12 believe that we are on schedule for providing our Preliminary
13 Staff Assessment on May 15th as we had previously indicated.

14 There's been a number of things that have been
15 ongoing since we last met with you, one of which is on
16 January the 21st we met with the staffs of the Air Resources
17 Board, the US EPA and also by conference call, the District's
18 staff, Mojave Air District's staff. That was a productive
19 meeting. Staff believes that those agencies are making
20 reasonable progress to analyzing this project although we are
21 all awaiting the applicant's proposed offset package which is
22 due later this month.

23 Regarding the points raised by Rick Wolfinger: We
24 are aware of a letter from John Dunlap, the Chairman of the
25 Air Resources Board, that recommended a 1.5 to 1 offset ratio

1 for interbasin offsetting. We also understand that the air
2 AID is also --

3 COMMISSIONER SHARPLESS: Wait, one-point -- Excuse
4 me, Rick. 1.5?

5 MR. BUELL: To 1.

6 COMMISSIONER SHARPLESS: For interbasin?

7 MR. BUELL: For interbasin.

8 COMMISSIONER SHARPLESS: I thought it was 3.1 that
9 the applicant --

10 MR. WOLFINGER: No, 1.3.

11 MR. BUELL: If I might --

12 MR. WOLFINGER: Just let him finish the sentence, I
13 think he'll get to it.

14 COMMISSIONER SHARPLESS: Okay.

15 MR. BUELL: Is that we understand that John Dunlap
16 would accept a ration of 1.3 to 1 although we have not seen
17 anything in writing yet. We suspect the Air Resources Board
18 may await actually receiving a specific proposal before
19 making any final decision on what they would find acceptable
20 on this project or any other project for that matter. So
21 that's an item that is outstanding at this point is AID
22 approval. We don't have evidence of that.

23 COMMISSIONER SHARPLESS: Well, the John Dunlap
24 letter was not, it was a suggestion and not a policy?

25 MR. BUELL: It was a suggestion as I recall the

1 language said something to the effect that a ratio of 1.5 to
2 1 would be acceptable to the Air Resources Board. But it did
3 not preclude a lower ratio as being also acceptable to the
4 Air Resources Board.

5 COMMISSIONER SHARPLESS: So 1.5 is what John
6 Dunlap's letter said?

7 MR. BUELL: That's my recollection.

8 COMMISSIONER SHARPLESS: And where did the 1.3 come
9 from?

10 MR. BUELL: If I understand correctly that is a
11 suggestion, recommendation from the applicant to the district
12 and from the district to the Air Resources Board.

13 MR. WELCH: Excuse me. It actually was the Air
14 District that wanted the 1.3 to 1 and Mojave Desert filed a
15 letter with the Air Resources Board asking that. And then in
16 the subsequent conference call that Rick was referring to
17 they said that the 1.3 to 1 would be acceptable. Moreover,
18 they said that that determination is actually in the hands of
19 the local district in which the offsets would be put into
20 use.

21 COMMISSIONER SHARPLESS: Are there any other steps
22 that have to be taken to finalize with the offset ratio is
23 going to be?

24 MR. BUELL: My understanding of the process is that
25 the --

1 COMMISSIONER SHARPLESS: Does the district get the
2 final determination and have they made the final
3 determination?

4 MR. BUELL: They have not made that final
5 determination. It would be contained in their Determination
6 of Compliance which would be due on April 20th, I believe.

7 COMMISSIONER SHARPLESS: And what is the ARB's role
8 in reviewing and approving that?

9 MR. BUELL: ARB as well as US EPA will be
10 responsible for reviewing that permit, proposed decision by
11 the district and they have 30 days to comment on it.

12 COMMISSIONER SHARPLESS: Is it to be -- Is the
13 determination based on whether or not it meets their SIPP
14 (phonetic) commitments or whether or not it meets existing
15 rules? Are these interbasin trade ratios out of existing
16 rules and out of the SIPP commitments?

17 MR. BUELL: I am not familiar with the exact
18 legislation that was adopted some years ago allowing
19 interbasin offsets so I can't answer that question completely
20 at this point in time but I believe it would have to be
21 consistent with adopted rules, district rules, and also
22 consistent with their attainment strategy.

23 COMMISSIONER SHARPLESS: Okay. And so somebody
24 would make that determination, the district, the ARB and the
25 US EPA.

1 MR. BUELL: Yes.

2 COMMISSIONER SHARPLESS: Do they all have to sign
3 off or can we just go with what the district says?

4 MR. BUELL: I believe ultimately they would all
5 have to sign off in that they have oversight authority, both
6 the ARB and US EPA. If the district said X was acceptable
7 and the ARB thought otherwise they would have the authority
8 to rescind the district's decision, basically.

9 COMMISSIONER SHARPLESS: Okay. Has the ARB or US
10 EPA set any kind of schedule for those determinations?

11 MR. BUELL: Other than as required by district
12 rules and regulations, a 30 day comment period. I believe
13 that staff has talked with them about that period and
14 impressed upon the need to try to make all their comments
15 within that 30 days in order to facilitate our process.

16 COMMISSIONER SHARPLESS: When does the 30 day
17 comment period start? Is that before the DOC is issued?

18 MR. BUELL: It's from the date of the Preliminary
19 Determination of Compliance. And I believe there's a 30 day
20 review period on that.

21 COMMISSIONER SHARPLESS: And do you have an actual
22 date for that?

23 MR. BUELL: The proposed date from the District is
24 April 20th.

25 COMMISSIONER SHARPLESS: Okay. And does that feed

1 into our schedule?

2 MR. BUELL: Yes. That's contained in a memo that
3 staff presented to the Committee last Friday.

4 COMMISSIONER SHARPLESS: Okay. So that's the Air
5 District preliminary DOC?

6 MR. BUELL: Yes.

7 COMMISSIONER SHARPLESS: So 30 days prior to that
8 would be the comment period?

9 MR. BUELL: Thirty days after that.

10 COMMISSIONER SHARPLESS: Oh, 30 days after that.

11 MR. BUELL: Right.

12 MR. JOSEPH: That's why it's preliminary.

13 COMMISSIONER SHARPLESS: So 30 days after that is
14 May 20th.

15 MR. BUELL: Correct.

16 COMMISSIONER SHARPLESS: Which is after the May
17 15th proposed date for the Preliminary Staff Assessment.

18 MR. BUELL: Correct.

19 COMMISSIONER SHARPLESS: So you're going to be
20 making that assessment without knowing whether the Air Board
21 or the US EPA has bought off on the interbasin ratio.

22 MR. BUELL: Correct. Staff will present in its
23 Preliminary Staff Assessment its findings, its
24 recommendations to the Committee on the District's
25 determination of the compliance as it stands at that point in

1 time. We will not have an absolute knowledge from those
2 other agencies, what their concerns may be, so the staff's
3 analysis will be incomplete in that context. We will,
4 however, have had an opportunity to incorporate those
5 findings in our Final Staff Assessment which is due to be
6 published in July, I believe. July 15th.

7 COMMISSIONER SHARPLESS: Okay, fine.

8 MR. BUELL: Regarding another point raised by Rick
9 Wolfinger regarding the emission offsets: Staff notes that
10 our data requests on emission offsets asked that letters of
11 intent or other binding agreements with the various suppliers
12 of offsets be provided as part of the data responses. We
13 also note that at some point prior to the Commission
14 certifying this proposal we will need in hand evidence that
15 contracts have been signed to obtain those offsets. And
16 Caryn can give you more detail on the specific cites and
17 whatnot if you're interested in that level of detail at this
18 point in time. Moving right along.

19 COMMISSIONER SHARPLESS: Well, if I could ask you.
20 The difference between identifying the offset candidates and
21 exacting a letter of intent, does staff want to comment on
22 that? Does that pose --

23 MS. HOUGH: I'm sorry, what was the question again?

24 COMMISSIONER SHARPLESS: Is there any staff concern
25 over -- Our schedule says, Applicant submits letter of intent

1 committing offsets for projects to Air District on March
2 20th. They've already indicated that that's not going to
3 happen, that it's not required by District rules. That what
4 they're going to do is that they're going to list 150 percent
5 of offsets that they may be negotiating with. They won't
6 identify which ones but there will be a list of possible
7 offset and they're going to provide that on March 19th.

8 Would the staff like to comment on what --

9 MS. HOUGH: Well this is -- We heard that for the
10 first time this morning so it's probably premature for us to
11 state whether or not that will ultimately be a problem.
12 Initially I'm concerned upon hearing about it because of the
13 fact that we need to know where the offsets are going to be.
14 Ultimately, as Rick points out, the crux of the matter will
15 be in the Commission's Decision, which cannot be issued in
16 the affirmative unless there is a determination from the APCO
17 that the offsets for the project have been obtained.

18 COMMISSIONER SHARPLESS: Okay. But they indicated
19 that they --

20 MS. HOUGH: You know, this is a --

21 COMMISSIONER SHARPLESS: Okay.

22 MS. HOUGH: I mean, it's a question of where it all
23 comes about. We want this information for our analysis, you
24 have to have it for your decision. I guess that we would
25 need to know when they'll reach that step before we decide

1 whether or not we would take any formal action before the
2 Committee. Our initial reaction is one of concern about our
3 ability to complete our work.

4 COMMISSIONER SHARPLESS: Your analysis, okay.

5 MR. BUELL: Regarding BACT for this project: Staff
6 has been doing some investigation and has attempted to share
7 that information with the applicant as well as the district
8 and EPA staffs on a number of different dates. We don't
9 necessarily disagree with the characterization that Rick
10 Wolfinger provided on the status of BACT on this project.
11 There is a number of different alternatives that are, that
12 could be considered by the district and that ultimately it's
13 the district's determination with the oversight of the Air
14 Resources Board and US EPA.

15 Regarding the water for this, water supply for this
16 project: We had what I would characterize as a productive
17 workshop in Victorville last week where we had a number of
18 the water agencies. Mojave Water District attended as well as
19 the Victor Valley Water District and other parties that
20 are concerned about water supply for this project. We had a
21 productive workshop and we have a better understanding of
22 what the issues are surrounding water at this point in time.
23 Although we are all waiting for what the applicant's proposal
24 is to supply water for this project. And I note that the
25 applicant has not indicated that they will not provide that

1 information on March 16th as indicated in both the
2 Committee's schedule and the staff's schedule.

3 One of the other major areas that staff has
4 identified in our Issues Report previously was the area of
5 transmission system engineering. In both our schedule and I
6 believe in the schedule that the Committee has prepared for
7 today identify a number of dates for providing stability
8 analysis, for example, and interconnect studies from Edison.

9 Our information in our schedule is based upon
10 information we received from the applicant and from Edison
11 early in January. We're concerned that those dates are still
12 valid. We trust that the applicant is forthcoming in letting
13 us know whether or not they will be able to meet those dates
14 but we share a concern or we have concern that that may
15 ultimately affect the project schedule in this case.

16 Other issues that we have raised in our Issues
17 Report regarding visual resources. We have received data
18 responses from the applicant. We have just as of yesterday
19 filed some additional data requests with the applicant to
20 request additional information and clarification of previous
21 data responses.

22 On Land Use the issue had to do with Federal -- FAA
23 -- Aviation Administration concerns on the project. The
24 applicant has filed a letter with Staff showing the FAA finds
25 no major problems with its proposal. Staff is currently

1 investigating whether or not thermal plumes from the exhaust
2 stacks of the project as well as from the cooling tower
3 represent a problem for aviation hazards at the site. We
4 have reached no conclusions at this time on whether that is
5 and we are trying to contact the Federal Aviation
6 Administration to find out whether that's one of their
7 concerns or whether or not they examined this. To date we
8 have not been able to make that contact so I can't provide
9 any more than we're still studying the issue.

10 As far as -- One of the other things that has
11 occurred since we last met was a meeting that staff had with
12 the ISO on February 3rd. The primary purpose of that meeting
13 was to describe to the ISO our siting process. To make them
14 familiar with our process, to gain a better understanding of
15 their process and how it might relate to our siting process.
16 The topic was not specifically to discuss High Desert or
17 reach conclusions about the High Desert Project but that
18 meeting did take place. Arlene Ichien of our staff is here
19 if you'd like more details on what happened at that meeting
20 today. If not, that concludes my remarks on the status of
21 the project.

22 COMMISSIONER SHARPLESS: Okay, thank you. Bob, do
23 you have any questions of Staff?

24 COMMISSIONER LAURIE: No.

25 COMMISSIONER SHARPLESS: Okay.

1 MR. WOLFINGER: I have a question of --

2 COMMISSIONER SHARPLESS: Yes.

3 MR. WOLFINGER: I didn't talk about the schedule in
4 the interconnection study, Rick. We don't think it's going
5 to be out until the middle of April. We didn't end up --
6 Although we were ready to sign the contract we didn't sign
7 the contract until February 17th. And by -- I don't know,
8 whatever your regulations are, whatever. They have 60 days
9 to respond.

10 MR. MAVIS: Sixty days.

11 MR. WOLFINGER: So in theory they could wait until
12 something like, you know, April 18th to respond to us or
13 something like that.

14 COMMISSIONER SHARPLESS: Which response are we
15 talking about? The scope?

16 COMMISSIONER SHARPLESS: The transmission study.

17 MR. THOMPSON: The one that's listed as April 15th.

18 COMMISSIONER SHARPLESS: Yes.

19 MR. WOLFINGER: April 15th. I think they have
20 until the 17th or 18th.

21 MR. THOMPSON: And I believe that the main one
22 interconnection study would be moved up, it would be part of
23 the same package.

24 COMMISSIONER SHARPLESS: Okay. So rather than
25 having the interconnection study complete by May 1st that one

1 would move up into April?

2 MR. THOMPSON: I believe they'd both be around, on
3 or about April 22.

4 MR. WOLFINGER: Let me ask you a question. Is the
5 analysis, the stability analysis one thing and then what they
6 do is they do another study to say what kind of equipment
7 they need? Is that the interconnection study?

8 MR. THOMPSON: I think it will all come in on the
9 same --

10 MR. WOLFINGER: It's all the same thing?

11 MR. THOMPSON: Yes.

12 HEARING OFFICER VALKOSKY: So again I'm confused.
13 Which date would you like reflected on the schedule?

14 MR. WOLFINGER: It's April 18th, I think, is the
15 date that they're tied into So Cal Ed, right?

16 MR. WELCH: That's when they owe it back to us.

17 MR. THOMPSON: Okay.

18 MR. WOLFINGER: I would say on the 22nd, that gives
19 us --

20 MR. THOMPSON: A couple more days to make sure that
21 we can get it from Edison and get it to you. If you change
22 April 15 to April 22 and May 1 to April 22 I think we'll be
23 there.

24 COMMISSIONER SHARPLESS: Okay. Staff, do you have
25 anything that you -- any comment on that timing issue?

1 MR. BUELL: No, we look forward to receiving the
2 interconnection study.

3 COMMISSIONER SHARPLESS: Okay. I assume, Steve,
4 that you don't want to weigh in on that particular issue yet.

5 MR. MAVIS: Well, just to mention that the ISO has
6 been involved in working with the --

7 COMMISSIONER SHARPLESS: Edison.

8 MR. MAVIS: -- participating transmission owner,
9 Edison. We've had some conversations with them about the
10 study scope to make sure that they were in line with our
11 requirements and also in terms of overall process. What they
12 need to do to meet our objectives.

13 COMMISSIONER SHARPLESS: So this was specific to
14 this project --

15 MR. MAVIS: Specifically.

16 COMMISSIONER SHARPLESS: And this is based on the
17 February 17th agreement.

18 MR. MAVIS: Yes.

19 COMMISSIONER SHARPLESS: So you've had
20 conversations since February 17th with Edison regarding the
21 scope.

22 MR. MAVIS: Yes, we have. Yes.

23 COMMISSIONER SHARPLESS: Okay. Well, I don't know
24 about April 22nd but if you guys think it's going to be ready
25 by April 22nd we'll allow the schedule to reflect it. Okay?

1 And then we'll see. Okay. Do you want to ask that question?

2 HEARING OFFICER VALKOSKY: Excuse me. Ms. Hough,
3 assuming that Applicant is correct in saying that the
4 identification of 150 percent of the offsets to the Air
5 District satisfies the Air District's requirement and that is
6 due on March 20 or March 19th, correct? Does Staff need a
7 separate filing for its analytical purposes of the letters of
8 intent committing the offsets to the project?

9 MS. HOUGH: Again, I'd have to go back to what I
10 said before which is, I don't know. Basically, when we get a
11 response that says they can't provide exactly what we're
12 looking for I'll go back and talk with Staff and find out
13 exactly, you know, which part of their analysis required each
14 specific piece of information. Then we make a decision about
15 whether or not to bring it back to the Committee or not. And
16 we haven't -- I haven't gone through that process yet since I
17 haven't, since I just heard about this this morning.

18 HEARING OFFICER VALKOSKY: Okay. So you have no
19 pending data requests on these matters?

20 MS. HOUGH: We have a data request that specifies
21 letters of intent, it doesn't talk about, just identify how
22 many offsets are available. I think Staff was hoping that
23 we'd be a little bit further along in the analysis in terms of
24 narrowing down where these offsets are going to be provided
25 from.

1 COMMISSIONER SHARPLESS: Well, we have another
2 point on the schedule where parties submit status reports to
3 Committee on March 25th. It could be at that point since
4 that's after the March 19th and 20th period that we will
5 allow staff to assess that and come back with any
6 recommendation that they might have regarding that point.

7 MS. HOUGH: I think in some regards it may simply
8 depend on the location of the sources that they identify. So
9 we'll have to look at it once we get the information in to
10 determine whether or not we believe we need to go the extra
11 step and get the letters of intent or not at this point.

12 COMMISSIONER SHARPLESS: Okay.

13 MR. JOSEPH: Commissioner Sharpless, I think I just
14 want to flag what the potential problem might be if in the
15 middle of March we get a list of candidate offset sources,
16 which is really what I think we're talking about, 150 percent
17 of the candidates. We won't really be much further along
18 than we are today. What has to happen with -- And the reason
19 you need specific offset sources identified is part of the
20 CEQA process involves looking at whether there are
21 environmental effects from the mitigation measures
22 themselves. Until we know specifically how these offsets
23 will be obtained that analysis can't begin.

24 COMMISSIONER SHARPLESS: I recognize that and I'm
25 wondering whether or not, given the fact that I believe the

1 district would have to identify that in order to issue their
2 DOC, whether getting the information at that point will allow
3 Staff adequate analytical time to do that type of analysis.

4 MR. BUELL: I think that, as Caryn has indicated
5 earlier, we were not of the understanding that there was a
6 problem with providing a response to our data requests until
7 momentarily ago. So we have not really had an opportunity to
8 think about what we need in order to do our Preliminary Staff
9 Analysis or what the district would need to do its
10 Determination of Compliance.

11 Obviously, if it's a matter of all information that
12 we would typically think would be necessary are contained in
13 a letter of intent securing those offsets but we had 150
14 percent instead of 100 percent then I don't think there's a
15 problem. But if there's something less, if we're simply, I
16 think as Caryn has identified, simply expanded the list of
17 potential offset sources we have gained almost nothing in
18 terms of certifying this project and I would be concerned.
19 In light of not having that information and knowing exactly
20 what we're going to get in hand, at this time I'm reluctant
21 to say that this is a major problem or it isn't a major
22 problem.

23 COMMISSIONER SHARPLESS: Okay. Would it be by
24 March 25th after the candidate list is issued an opportunity
25 for the staff to think through that and determine what needs

1 to be done? And we would the staff to come back to the
2 Committee and specifically address that issue.

3 MR. BUELL: Yes, I believe that we could do that in
4 the seven days, I guess, between the two.

5 COMMISSIONER SHARPLESS: Earth was made in fewer.

6 MR. THOMPSON: If I may? The list is going to be a
7 list of willing sellers.

8 COMMISSIONER SHARPLESS: Right.

9 MR. THOMPSON: Okay.

10 COMMISSIONER SHARPLESS: Right. It doesn't
11 pinpoint who you're going to be negotiating with, it's just
12 willing sellers, right?

13 MR. THOMPSON: Right. But it's also not a list of
14 everybody that has offsets.

15 MR. WOLFINGER: Right.

16 MR. THOMPSON: It will reflect the fact that
17 discussions have been ongoing and that there are willing
18 sellers.

19 COMMISSIONER SHARPLESS: As opposed to unwilling
20 sellers on the list.

21 MR. THOMPSON: Exactly. And that's actually --

22 MR. WOLFINGER: Right. But there are people that
23 are unwilling sellers.

24 COMMISSIONER SHARPLESS: Right.

25 MR. WOLFINGER: There are people that have them but

1 don't want to sell them.

2 COMMISSIONER SHARPLESS: But we don't want that
3 list.

4 MR. WOLFINGER: That's right.

5 COMMISSIONER SHARPLESS: We're not into
6 condemnation of offsets. Okay.

7 (Thereupon, tape 1 was changed
8 to tape 2.)

9 MR. JOSEPH: If I could just make one other point
10 on this.

11 COMMISSIONER SHARPLESS: Yes.

12 MR. JOSEPH: I think it's just worth remembering
13 that originally this was information which was supposed to
14 have been included in the application and --

15 COMMISSIONER SHARPLESS: We keep moving it.

16 MR. JOSEPH: Right. And I stood up here and said,
17 you know, we're going to have trouble, there's not much time
18 between when we get the list of offsets and when Staff's
19 report is due and our testimony is due. And the Commission
20 decided to accept the application anyway based on what were
21 believed to be the unusual rules of the air district that
22 allowed the air district to get more information after
23 accepting the application. So I just want to raise that flag
24 again that the more actually identifying the specific offset
25 sources and the methods of emission reduction slips the

1 greater pressure it puts on the schedule.

2 COMMISSIONER SHARPLESS: I think that we recognize
3 that, I think the applicant will recognize it if they don't
4 already recognize it, and it does put pressure on the
5 schedule. So it's going to -- But one way or the other it
6 will be analyzed and one way or another there will be a
7 record on which we'll make a decision. And if that record is
8 not available and the Committee cannot make a decision then
9 it definitely impacts the schedule.

10 MR. BUELL: Staff would also like to note for the
11 record that Staff's data requests do not simply ask for a
12 list of willing sellers but they also ask for a
13 quantification of emission reductions to be purchased, also
14 to describe the methods to achieve emission reductions,
15 provide source test information to substantiate the emission
16 reductions that are achievable from those emission sources.
17 So we remind the applicant to go back to our data requests
18 and to the best of their ability provide responses to all
19 parts and if not please advise us as soon as possible on what
20 information can be provided.

21 COMMISSIONER SHARPLESS: Okay, there we go. Let's
22 let our intervenor make comments on scheduling and other
23 comments that were made today that you haven't already
24 commented on because it's getting late and I would like to
25 kind of move into the specific issues.

1 MR. JOSEPH: I will be very brief. I want to
2 comment on two issues. One, just for a matter of information
3 as it appears on the schedule, we are now expecting responses
4 to the great bulk of the data requests on March 11th.

5 And second, Mr. Wolfinger raised the question of if
6 the required NO_x emission rate for the project were below 3.5
7 or 4 PPM he raised the possibility that that would make it
8 impossible to get financing for the project. As I'm sure
9 Commissioner Sharpless is well aware, the issues of LAER and
10 BACT and the interaction between federal requirements and
11 state requirements is a complicated matter. LAER is an
12 emission rate, not a technology, BACT is a technology.

13 I think that if this issue becomes a serious issue
14 it might be worth the Commission's while to pose a question
15 to the parties just as you have posed these other three
16 questions as to exactly what the requirements are for BACT
17 and LAER and imposed by which jurisdictions and what those
18 determinations are and who decides what they are. Because it
19 is not a simple question and it is not a simple answer. And
20 I simply make that suggestion. That this could be an issue
21 which you'll want to hear more about and in more detail.

22 COMMISSIONER SHARPLESS: Okay, the Committee will
23 take that under advisement. Let's move on now to the
24 specific questions that were in the Committee's Order dealing
25 with Decommissioning and Closure, Transmission and Project

1 Configuration. And I think I'd like to start with
2 Transmission because our ISO people I know are very busy
3 these days, as all of us are, but they have some time
4 constraints. And I would like to start that as the topic of
5 conversation so that we can let them go without getting
6 involved in some of the other issues perhaps that they have
7 not as high involvement in.

8 **TRANSMISSION**

9 And perhaps we can start this out -- The procedure
10 would be to go with the applicant and then to the staff and
11 then we would turn to you and your comments. So perhaps
12 we'll start with the applicant on the transmission issue.
13 This is one of who gives the permits, the determinations and
14 the approvals, what's the process, and what does the
15 Commission need in order to make its decision.

16 MR. THOMPSON: From an applicant's standpoint this
17 is pretty easy. I think we want to reflect what Edison, the
18 ISO and the CEC want. And having reviewed the ISO and CEC
19 submittals I think you can take our remarks as agreeing with
20 what they would like to see. I think they got it right.

21 COMMISSIONER SHARPLESS: Okay, I wish I understood
22 exactly how clear right is. You must understand it.

23 MS. HOUGH: I guess I have the advantage now.

24 COMMISSIONER SHARPLESS: Caryn, why don't you then
25 lay the foundation for the discussion.

1 MS. HOUGH: All right. The way we looked at the
2 questions that the Committee posed in the Scheduling order
3 was to start from some of the bigger questions and then go
4 down to the smaller questions. We believe that the High
5 Desert Applicant has a right to interconnect with the Edison
6 system as granted by the Federal Power Act. The Commission's
7 license doesn't -- can't influence that in any way.

8 COMMISSIONER SHARPLESS: Caryn, could you talk
9 closer to the mike.

10 MS. HOUGH: I'm sorry.

11 COMMISSIONER SHARPLESS: That's okay.

12 MS. HOUGH: Nonetheless the Commission does have
13 responsibilities within the licensing process, both with
14 respect to CEQA as well as its own findings. With respect to
15 its own findings the Commission is required to identify all
16 applicable standards with which the project must comply.
17 Those include standards that would insure system reliability.

18 As you know, as a result of AB 1890 the
19 responsibility for identifying standards to ensure system
20 reliability to make sure that they are applied rests with
21 transmission owners and the system operator. As a result,
22 Staff has recommended that the Committee seek to include the
23 ISO's determination about what standards will apply and
24 whether or not this project will comply with them within the
25 Commission's licensing process and that would serve as a

1 sound basis for the Commission's findings in its decision on
2 compliance with standards.

3 In addition the Commission has responsibilities
4 under the California Environmental Quality Act to consider
5 the environmental effects of any parts of the project, both
6 including those which it licenses and those which it doesn't
7 license but which are nonetheless caused by the project or
8 created by the project. That would include transmission
9 system upgrades, whether they are within the Commission's
10 licensing jurisdiction or without. So we'll need to know at
11 some point whether or not there are transmission system
12 upgrades that are required or modifications in order to
13 consider the environmental effects of those.

14 And that's kind of a brief summary of the two
15 sources of legal requirements that are applicable to the
16 Commission's decision on this project.

17 COMMISSIONER SHARPLESS: Could you then -- Thank you
18 for that. Could you then outline for the Committee what
19 you see the steps are to getting us through the process.
20 Where do we need to concentrate, what needs to happen by when
21 in order for us to meet this.

22 MS. HOUGH: What Staff would like to see is what
23 the interconnection arrangement is going to be. We would
24 like to know whether or not specifically there are additional
25 facilities that will be required. Staff plans to rely

1 heavily on the ISO for a determination of reliability, we
2 don't intend to independently assess whether or not the
3 proposed interconnection would ensure system reliability. We
4 can and we encourage the Committee and the Commission to plan
5 on relying on the ISO's determination in that regard.

6 Therefore it's important I think to have it as part
7 of the Commission's process to the extent possible, both for
8 making those findings on compliance with reliability
9 standards as well as identifying any necessary system
10 upgrades that the Commission would have to conduct an
11 environmental review for.

12 Nonetheless we did address in our response the
13 possibility that that might not be possible, that the ISO may
14 not be able to complete its determination prior to a
15 Commission decision. At that point, and I hope this is a
16 purely hypothetical discussion, the Commission would have the
17 option of determining whether or not it had sufficient
18 evidence in the record on which to make findings about
19 compliance with reliability standards.

20 I would also recommend strongly that if the
21 Commission were to go ahead and license a facility without an
22 ISO determination as to what standards would apply and how
23 this project would comply with them that the license be
24 conditioned on bringing that final determination back to the
25 Commission so that it could make, it could conduct any

1 necessary environmental review of any additional facilities
2 and make final conclusions about compliance with standards to
3 ensure reliability.

4 So you would have the option if the ISO cannot
5 complete its determination within the licensing process of
6 going forward if you have substantial evidence to make the
7 necessary findings. You also have the option of choosing not
8 to go forward and saying that you would prefer to have that
9 information in your record before you make a decision.

10 COMMISSIONER LAURIE: Question, Madam Chairman.

11 COMMISSIONER SHARPLESS: Commissioner Laurie.

12 COMMISSIONER LAURIE: I'm sorry, Mr. Valkosky, were
13 you going to comment?

14 HEARING OFFICER VALKOSKY: No, go ahead.

15 COMMISSIONER LAURIE: Let me ask a question
16 regarding our obligations under our environmental rules. And
17 in fact I think this point was already brought up today. We
18 are obligated, and this is a question, are we not, to know
19 and understand and study the impacts of the project in its
20 entirety, including potential mitigation measures?

21 MS. HOUGH: That's correct.

22 COMMISSIONER LAURIE: So can we, and if we can to
23 what extent, can we segregate out the transmission element of
24 the project for further study? Would that be permissible
25 under CEQA or are we bifurcating the project?

1 MS. HOUGH: The proposal that Staff had was not to
2 bifurcate the project but to require additional environmental
3 review if it's necessary once the final ISO determination is
4 completed. And if there were to be synergistic or cumulative
5 effects that were identified as a result of any necessary
6 system upgrades in combination with project impacts Staff's
7 analysis would address those points and the Commission would
8 have to make a decision about whether to modify the license
9 in light of that analysis as well as the analysis that would
10 be presented by other parties.

11 I guess what I'm saying is that I would -- To the
12 extent that you're bifurcating the project. I'm looking at
13 bifurcating the licensing portion versus the environmental
14 analysis. I would recommend that the environmental analysis
15 of any necessary system upgrades be tied back to the
16 Commission's analysis of the project as a whole. Before --

17 COMMISSIONER SHARPLESS: And that would be based on
18 the study, the study done by Edison.

19 MS. HOUGH: Correct.

20 COMMISSIONER SHARPLESS: In this scenario it would
21 be -- Hopefully, there would be a review by the ISO and a
22 determination by the ISO somewhere in that April period.
23 Whether or not that's possible, I don't know. But that would
24 be the best of all worlds.

25 MR. JOSEPH: Right.

1 COMMISSIONER SHARPLESS: That we would have a
2 study. They've already been in touch with Edison and they've
3 already talked about the scope of the study. Edison does the
4 study. That study then becomes available on April 22nd. I
5 assume to everybody. Maybe it becomes available earlier, I
6 don't know, to the ISO. I don't know if their process is
7 going to allow it to become available before that time. I
8 don't know how long their review and determination would take
9 but certainly in the time frame would be ideal to incorporate
10 it into the environmental analysis. If that didn't happen
11 would we then be depending solely on the study to do our
12 environmental analysis without input from the ISO?

13 MS. HOUGH: I'm sorry, I don't understand your
14 question.

15 COMMISSIONER SHARPLESS: Okay, next scenario. If
16 something happens and the ISO is not able to do a
17 determination, a review and determination in the April time
18 period, that part gets delayed. Would we be able to take the
19 study that Edison did and base our environmental analysis
20 solely on that study?

21 MS. HOUGH: Right. Well, that's a good question.
22 One of the questions if the ISO can't complete its
23 determination in the fashion that you've talked about in your
24 first option. The question that you're going to have to look
25 at is what evidence do you have in the record and how useful

1 is it in making you feel comfortable that you've identified
2 the scope of the project. It may be that Staff will look at
3 the study and CURE will look at the study and other
4 intervenors and maybe the applicant at the study and we'll
5 all be able to agree that we can make some pretty good
6 recommendations about what the likely outcome of this
7 project's interconnection is going to be in terms of
8 necessary system upgrades.

9 If that's the case and Staff and other parties
10 present evidence on any environmental effects associated with
11 that I don't think the Commission is precluded from issuing a
12 decision as long as that consideration has occurred. If
13 there is -- If the study does not let the Commission believe
14 that it has a good sense of what the reasonable likely
15 outcome of interconnection is going to be then you may choose
16 to say, no, you don't have sufficient information to proceed.
17 All I was trying to do was to say that there's going to be a
18 range of options.

19 COMMISSIONER SHARPLESS: But then that becomes a
20 problem with the Edison study itself and not necessarily --
21 won't the ISO have similar problems?

22 MS. HOUGH: I don't know.

23 COMMISSIONER SHARPLESS: We wouldn't be able to
24 count on the ISO to necessarily fix any problems that might
25 occur given that the study doesn't answer all of the

1 questions.

2 MS. HOUGH: Right.

3 COMMISSIONER SHARPLESS: It won't be up to the ISO
4 to fix the study, in other words.

5 MS. HOUGH: Go ahead.

6 MR. JOSEPH: I wonder if I can take a stab at this.
7 There are three decision makers involved with the
8 interconnection, there's the ISO, there's Edison and there's
9 the Commission. The obligations of the ISO and Edison are
10 set out in the ISO's tariff that was filed at FERC --

11 COMMISSIONER SHARPLESS: Right.

12 MR. JOSEPH: -- and the Transmission Control
13 Agreement.

14 COMMISSIONER SHARPLESS: Right.

15 MR. JOSEPH: Edison does the technical study. The
16 scope of and assumptions for the technical study have to be
17 acceptable to the ISO and it sounds like they've had that
18 meeting. The study identifies facilities that Edison thinks
19 are needed to meet reliability standards then Edison submits
20 the study to the ISO. The ISO is obligated under its tariff
21 and the Transmission Control Agreement to perform an
22 operational review; as a result the ISO has the right to
23 impose additional obligations.

24 Ms. Hough is right that under CEQA you have the
25 obligation to look at all the ramifications, the whole of the

1 project. You can't analyze the whole of the project until
2 Edison and the ISO have told you what they're going to
3 require for protecting system reliability. You won't know
4 what they're going to require.

5 COMMISSIONER SHARPLESS: So it's your position that
6 the Commission Staff would not be able to just take the study
7 and do an environmental assessment on it. That it does
8 really require the ISO to do the review and do a
9 determination.

10 MR. JOSEPH: Maybe the staff can guess right but it
11 would just be a guess. Until the ISO and Edison have made
12 decisions they would just be guessing what the project would
13 be.

14 COMMISSIONER SHARPLESS: I think it really depends
15 on the study itself. And that's the part of the equation
16 that as a person only hearing very general words like scope
17 and study, transmission system stability analysis and
18 interconnection study, how involved that study gets and how
19 many options are identified. And then, are they options or
20 are they actual choices that then go to the ISO and the ISO
21 does nothing more than does an operational review and says
22 yes, these are the right choices. Are they then going to
23 make a separate study to determine if there are a bazillion
24 more options out there? I don't know.

25 MR. JOSEPH: I think your question highlights a

1 really important problem which if done properly we can
2 address now as to not have a problem later on.

3 COMMISSIONER SHARPLESS: We're past the point.

4 MR. JOSEPH: Okay.

5 COMMISSIONER SHARPLESS: We'll do it this way.
6 We'll finish with them, talk to the ISO and then let Edison
7 speak.

8 MR. JOSEPH: I think it's important to understand,
9 and this is a point where I disagree with the staff. The
10 story is not over when the ISO and Edison make their decision
11 as to what is required. This Commission is the lead agency
12 for CEQA. You have an obligation under the Public Resources
13 Code to certify in your final decision that the decision
14 reflects your independent judgement. And you can't just say,
15 okay, it's okay with the ISO then it's okay with us. It has
16 to reflect your independent judgement. This becomes
17 important because --

18 COMMISSIONER SHARPLESS: An independent judgement
19 of what? That the ISO is wrong if it makes a determination
20 that X, Y and Z needs to happen in order to assure
21 reliability? Are we an appeal court to a reliability issue
22 over the ISO?

23 MR. JOSEPH: There are a number of agencies --

24 COMMISSIONER SHARPLESS: I don't think so.

25 MR. JOSEPH: You are the one stop shop here and a

1 number of agencies --

2 COMMISSIONER SHARPLESS: And you're talking from an
3 environmental assessment. What we need to do is we need to
4 factor in the reliability equation and then the environmental
5 impacts of that reliability equation and what, if any,
6 mitigation measures need to take place as a result of that
7 decision. But not a decision on whether the ISO is making a
8 proper decision on what needs to occur to make the system
9 reliable.

10 MR. JOSEPH: The issue is not so much --

11 COMMISSIONER SHARPLESS: Do we agree on that point?

12 MR. JOSEPH: I think we do. The issue is not
13 whether the ISO is incorrect, the issue is whether the ISO
14 and Edison have addressed all of your obligations in their
15 study. Because you have broader obligations than they do.
16 They may rely on --

17 COMMISSIONER SHARPLESS: You mean whether they're
18 mitigating the environmental impacts.

19 MR. JOSEPH: They're not charged with mitigating
20 environmental impacts.

21 COMMISSIONER SHARPLESS: I know, I know, but that
22 sounds like what you're saying. That the study ought to
23 include some kind of mitigation assessment of any
24 environmental impacts, which puts yet another wrinkle in the
25 study which I don't think its doing right now. And it's not

1 making an assessment of environmental impacts by mainly
2 making an assessment on operations reliability, systems and
3 dispatch.

4 MR. JOSEPH: Let me give you a specific example.
5 This study as far as my understanding goes will not analyze
6 any alternative interconnection possibilities. You have an
7 obligation under CEQA to analyze alternatives. One obvious
8 alternative would be to interconnect with the LADWP
9 substation which is closer to the project. This study won't
10 analyze that. And it's not surprising that they won't, they
11 have been asked to analyze a specific proposal, period.

12 I think there's a solution to all this and the
13 solution is to be sure that the Edison study meets
14 everybody's needs, ensure it from the beginning. Get it
15 complete the first time so that we don't have a study which
16 comes to you on April 22nd and we say okay, as far as we
17 know, you know, that's as good as we need as far as it goes
18 but it doesn't cover the gamut of what we have to address.

19 I think the solution is to get everything covered
20 the first time. And, you know, I think it would be
21 appropriate. You know, it's the kind of thing that the ISO
22 does when it's doing studies. It holds interim workshops.
23 Here's what we're doing so far, here's a list of assumptions,
24 is everybody okay with this, have we left anything out. Here
25 are our interim results. Are we doing this right, have we

1 made any mistakes. And that's the typical way that these
2 studies are done in other forums. Interim workshops so that
3 when you get to the end it will be done based on steps which
4 have been agreed to along the way. Because it is a very,
5 very complicated study.

6 COMMISSIONER SHARPLESS: Well, since they're here,
7 the ISO, they can speak best for their process. Steve, would
8 you like to weigh in on the issues here that we're trying to
9 sort through.

10 MR. MAVIS: Yes, I would. Well, first of all, I
11 guess, to concur with Mr. Joseph, the ISO does have the
12 authority given by FERC in its October 30th order to ensure
13 that the power grid is safe and reliable. To that end we
14 have put together some processes which were appended to the
15 letter that we sent to Mr. Valkosky. And I apologize.
16 Apparently the distribution didn't get to everyone on the
17 proof of service list and perhaps at this time if anyone did
18 not get a copy we have some extras here if you need one.

19 COMMISSIONER SHARPLESS: It seems like everybody is
20 happy, okay.

21 MR. MAVIS: But in this letter we kind of outlined
22 some of our responsibilities. That is, the need to supervise
23 and provide input regarding that interconnection study that
24 we've been talking about. We recognize the need to make that
25 process as effective and as smooth as possible and to that

1 end we had asked the transmission owner to keep us abreast of
2 the study outcome and perhaps present some results at
3 appropriate milestone dates so that if we run into some
4 problems we can address it during the study process as
5 opposed to waiting until the end which could result in
6 additional delays. So we're going to try and be plugged in
7 to the study process as it's ongoing.

8 In terms of the study, of course one outcome would
9 be that they have addressed all of our issues and we're in
10 agreement with it and would approve the assessment. In the
11 event that there were some disagreements at the end of it of
12 course that would add some additional delays.

13 Also for your information, it hasn't been addressed
14 up to this point but there's a regional transmission process
15 within the western interconnection and we had requested the
16 applicants to send their project to the Western Regional
17 Transmission Association or WRTA and the Southwest Regional
18 Transmission Association, SWRTA. That would give an
19 opportunity for all stakeholders in the western United States
20 to take a look at this project.

21 And to the extent that they have any projects that
22 they are looking at that might be in a similar time frame
23 then perhaps these projects can get together and, to the
24 extent there's some synergy between these projects, come up
25 with an optimal plan for both of those projects or if there

1 are more than two. And of course that would potentially add
2 some additional delays to the project to the extent someone
3 came forth and requested to be part of this process.

4 COMMISSIONER SHARPLESS: Steve, could you address
5 Marc's issue about the alternatives.

6 MR. MAVIS: In terms of alternatives. Again, I
7 think that gets into if there are other projects out there
8 whereby the alternative they're looking at might be
9 rearranged somehow based on certain synergies with another
10 project and their project. If someone wants to interconnect
11 at a particular substation the ISO does not only not have any
12 preference, I guess, over one substation or another as long
13 as that interconnection meets all the reliability
14 requirements.

15 And reliability requirements also are kind of
16 global in nature. That is, any impacts to the grid, okay,
17 such as voltage problems, thermal overload problems,
18 stability problems. But we also have to make sure that the
19 interconnection meets all of the operating protocols for
20 interconnection. That is, we have to coordinate all the
21 protection schemes. Certain types of equipment has to meet
22 -- We have to make sure that their equipment is compatible
23 with Edison's equipment. That really is something that has
24 to be worked out between the applicant and the transmission
25 owner. And eventually the ISO since we're kind of in the

1 process of developing a lot of the operating protocols, the
2 interconnection protocols that may supersede those of the
3 transmission owners in the future.

4 COMMISSIONER SHARPLESS: So the question of other
5 alternatives being included in the study you think will in
6 fact happen just because of the different organizations that
7 are going to be involved in looking at this application.

8 MR. MAVIS: It may happen if someone steps forward.
9 In the event no one steps forward then I believe the
10 transmission owner will be looking at the interconnection
11 that has been --

12 COMMISSIONER SHARPLESS: Identified.

13 MR. MAVIS: -- proposed by the applicant.

14 MR. JOSEPH: But the specific alternative that I
15 mentioned, connecting to the LADWP substation, which
16 eliminates the need for about three miles of new transmission
17 line and the impacts that go along with that, would not be
18 part of the study. LADWP is not even at this point part of
19 the ISO.

20 MR. MAVIS: That's right.

21 MR. JOSEPH: And that would not be part of the
22 study. I think we agree that that would not be part of the
23 study; is that right?

24 MR. MAVIS: That's right. Of course, LADWP is not
25 an ISO grid facility, first of all. And to the extent that a

1 generator wants to interconnect at a non-ISO generator
2 facility, we wouldn't really have any particular concern over
3 that unless, I guess, that facility is adjacent or continuous
4 to an ISO facility. In which case the project still would
5 have to meet WCC requirements. That is, they should not
6 adversely impact the ISO grid. But that would have to be
7 dealt with in a WCC forum. But to the extent they want to
8 interconnect to an ISO grid facility. They just have to
9 ensure that the system will maintain an adequate level of
10 reliability and reliability will not be degraded.

11 COMMISSIONER SHARPLESS: So such an alternative
12 would not be one that you as the ISO would necessarily want
13 to include in the scope of the study?

14 MR. MAVIS: No, it would not.

15 COMMISSIONER SHARPLESS: And that would be because
16 that's outside the ISO jurisdiction.

17 MR. MAVIS: Well, I guess --

18 COMMISSIONER SHARPLESS: Not because it might
19 necessarily create a better -- From the intervenor's comments
20 you might suppose he is angling at that this might be a
21 better alternative. Who knows, it hasn't been studied, but
22 if it's not studied we don't know. And so the question is,
23 should it be studied, and if so, how does it get incorporated
24 in the study?

25 MR. MAVIS: Well, I guess that's kind of a

1 commercial issue in my mind because wherever a generator
2 interconnects there may or may not be reliability issues.
3 And to the extent there are, as long as they're mitigated and
4 the systems remain whole, and the applicant to the extent
5 that they're responsible for mitigating those impacts, we'd
6 be satisfied with that.

7 So I guess, you know, for us to come out and say
8 we'd prefer one location over another at this point is just
9 not something that we're looking at at this point in time.
10 In the future we want to provide certain incentives due to
11 global reliability problems such as must-run problems that
12 we're facing. But at this point in time, you know, as long
13 as reliability of the grid is maintained, and that can be
14 demonstrated through the studies. To the extent there's any
15 problems and additional facilities are required to meet the
16 reliability requirements then, you know, we'd be satisfied.

17 MR. THOMPSON: Let me jump in here for 30 seconds.
18 The impact of a proposal to interconnect to a substation that
19 is not an ISO substation, the LADWP substation, would mean as
20 a practical effect that you have to sell to LADWP.

21 COMMISSIONER SHARPLESS: Right.

22 MR. THOMPSON: They have shown not much interest of
23 late, having a vast surplus of energy. It is not a proposal
24 that we could possibly live with and have a project. So we're
25 not sure that studying that would make a lot of sense

1 and lead us down a productive path.

2 MR. JOSEPH: I offered the alternative merely as
3 one easy to understand example --

4 COMMISSIONER SHARPLESS: As an example.

5 MR. JOSEPH: -- of the kinds of things where the
6 Commission's obligations are broader than the ISO's. But the
7 Commission may want to avoid biology impacts and have a
8 different, and choose a different route, perhaps to another
9 ISO substation. But that would not be part of the study at
10 this point.

11 COMMISSIONER SHARPLESS: But we are talking about
12 market viability too, and I meant that the issue of
13 connecting -- I understand that you're using it as an
14 example. I guess right now we're in a situation that at
15 least in ISO responsibility and other options. You've got
16 those who are going to be under the ISO jurisdiction and
17 those who aren't. And when you do a project determination
18 how do you deal with this market issue and the alternatives.
19 The alternatives that might prove to be the less -- have less
20 environmental impacts will make the project not market ready
21 or more restricted in the marketplace or not economically
22 viable. And so the question then becomes, do you have to
23 study even the market, the ones that are not viable in order
24 to make your point.

25 MR. JOSEPH: The answer is no, that you're only

1 obligated to study feasible alternatives but you are
2 obligated to study feasible alternatives. And perhaps a
3 connection to DWP is feasible, perhaps it isn't, we don't
4 need to debate that at this point. But no alternatives will
5 be studied at this point in the study.

6 COMMISSIONER SHARPLESS: Well, I don't know that
7 that's the answer that we got from the ISO. Is that the
8 answer we got from you, Steve?

9 MR. MAVIS: No. I think from the ISO perspective
10 we, I don't think we're in a position to encourage or urge
11 that a generator locate at one station as opposed to another.
12 If it's a choice of the generator to locate at a particular
13 substation for certain business or commercial issues then
14 they have to demonstrate that by interconnecting at that
15 particular preferred site will result in a reliable system.
16 And if it does not that certain facility additions or
17 mitigation measures would have to be put in place so that
18 reliability would be maintained.

19 So I guess in our view, where they locate is really
20 more of a commercial issue. And it may have other, you know,
21 ramifications that -- water issues, environmental and so
22 forth. Those considerations may sway, I guess, as to which
23 site is preferable over another.

24 HEARING OFFICER VALKOSKY: Mr. Joseph, are you
25 contending that the interconnection study would have to

1 include alternatives even if, as the ISO says, it would not
2 be likely to approve any interconnection which did not, which
3 caused a reliability impact?

4 MR. JOSEPH: Ultimately the Commission is only
5 obligated to study feasible alternatives. And if the ISO was
6 unable to come up with any mitigation for a reliability
7 impact and therefore refused to allow that particular
8 interconnection then that becomes not a technically feasible
9 alternative.

10 HEARING OFFICER VALKOSKY: Right.

11 MR. JOSEPH: But we won't know what's technically
12 feasible unless we study it.

13 HEARING OFFICER VALKOSKY: But technical
14 feasibility, as I understand from Mr. Mavis, is that the
15 approved interconnection would be approved either because it
16 has not reliability impacts or because it has no impacts
17 which are not mitigable.

18 MR. JOSEPH: That's right.

19 HEARING OFFICER VALKOSKY: Okay.

20 MR. JOSEPH: But there may be impacts from that
21 choice which do not have anything to do with reliability.

22 HEARING OFFICER VALKOSKY: That's correct.

23 MR. JOSEPH: Which the Commission has an obligation
24 to consider.

25 HEARING OFFICER VALKOSKY: That's correct. But

1 then again, isn't the Commission in the same situation? It
2 could approve a routing, a line routing or anything else as
3 long as any attendant impacts are mitigated below the level
4 of significance?

5 MR. JOSEPH: It can but in the process it has to
6 study feasible alternatives. And simply having full
7 mitigation does not relieve the Commission of the obligation
8 to study alternatives.

9 COMMISSIONER SHARPLESS: Well, I guess it really --

10 MR. JOSEPH: That's exactly the Laurel Heights case
11 where University of California said, we've got mitigation, we
12 don't need to study alternatives. The Supreme Court said no,
13 you have to study alternatives.

14 COMMISSIONER SHARPLESS: But Marc, I guess it gets
15 down to the point of how you identify those alternatives.
16 Who identifies them and how you identify them and whether you
17 identify them as feasible.

18 MS. HOUGH: Can I step in for a moment again.

19 COMMISSIONER SHARPLESS: Are you going to answer
20 those questions?

21 MS. HOUGH: Hopefully.

22 COMMISSIONER SHARPLESS: Okay.

23 MS. HOUGH: I think we're confusing two questions
24 here. One question is, what analysis is required; the second
25 question is, what evidence does it have to be based on. And

1 I'd like to separate those for purposes of discussion. The
2 question as to what analysis is required gets back to my
3 point about trying to divide up between the two sets of
4 statutes, there's the Warren-Alquist Act and there's CEQA.
5 Now, the Warren-Alquist Act does not require this Commission
6 to make any findings about system reliability in a decision
7 granting an AFC. It's implicit that the Commission will
8 consider reliability issues in its analysis but there are no
9 specific findings required.

10 Staff does not conduct an independent assessment of
11 a project's impacts on system reliability. Staff has never
12 presented its own system stability analysis or
13 interconnection study. Staff has in the past looked at
14 various critical assumptions that go into these studies to
15 assess their reasonableness but we have never conducted a
16 completely independent review.

17 We do, however, have an obligation under the
18 California Environmental Quality Act to consider the
19 environmental effects of any transmission system upgrades
20 that are needed as a result of this project's
21 interconnection. Staff is recommending that the Commission
22 look at -- determine what those system upgrades will be, if
23 there are any, by relying on the study that Edison conducts
24 and the approval of the system operator.

25 Mr. Joseph is correct that the Commission is

1 required to consider project alternatives. We do not go out,
2 Staff has never nor does the Commission, go and consider --
3 we consider mitigation for specific identified impacts but we
4 do not go consider alternatives for each specific portion of
5 the project regardless of whether or not there's an impact.
6 That is not required by CEQA and this commission has never
7 done it.

8 We are not required to take what the applicant has
9 presented to us and pick pieces from that and add other
10 pieces and come up with the best project. What we are
11 required to do is to look at the project, identify any
12 significant environmental effects, mitigate them if we can
13 and consider alternatives to the project that may mitigate
14 any identified impacts. I think that that's the process that
15 Staff has proposed, the analysis that Staff has proposed.

16 The second question is what evidence do you rely on
17 to do this analysis. Staff is recommending that the
18 Commission try to do whatever it can to pull the ISO process
19 into this so that what you rely on is the ISO's
20 determination. Staff also believes, however, that if that
21 process isn't completed by the time you want to issue a
22 decision you can look at the evidence that you've got in the
23 record based on whatever Edison has completed to date,
24 whatever the applicant has filed, whatever CURE has filed or
25 any other intervenor or staff and make a decision about

1 whether or not you have enough information so that you can
2 reasonable estimate what the likely impacts of the project
3 are going to be. And if you do you can issue a decision and
4 if you don't you cannot.

5 So I'd like -- I think it's important to separate
6 the question of what the analysis that's required of the
7 Commission is from the question of what evidence the
8 Commission has to have before it in order to issue its
9 decision. And we would propose that you go forward with
10 trying to pull the ISO into the process and if you can't do
11 that you'll have to make a decision at that point in time as
12 to whether or not you want to proceed with the process.

13 COMMISSIONER SHARPLESS: Let's go back to the ISO
14 and what you called *pulling into the process*. What does that
15 mean, pulling into the process? Having heard what Mr. Mavis
16 has said about his process does Staff feel comfortable that
17 we will be able to coordinate our work with his work or is
18 there something else that needs to be done? And if so,
19 perhaps they can lay it out for the Committee so the
20 Committee can go back and deliberate as to how we want to
21 approach this subject.

22 MS. HOUGH: I didn't hear specific dates. I heard
23 Mr. Mavis say that they would be identifying what's necessary
24 for this project specifically to interconnect in a way that
25 ensures system reliability. For Staff that's a great

1 starting point for the environmental analysis because if that
2 process identifies additional system upgrades that are
3 necessary we would conduct an environmental analysis of that.
4 We would look at potential mitigation measures if there are
5 any identified significant impacts that would mitigate those
6 impacts and we'll take that into consideration when we do a
7 project alternatives analysis.

8 What I didn't hear from Mr. Mavis was whether or
9 not his part of that analysis, when it's going to be
10 presented to the Commission. So I can't tell you whether or
11 not that will dovetail with Staff's analysis or not until I
12 know when it's going to be provided.

13 COMMISSIONER SHARPLESS: Mr. Mavis, can you give us
14 any sort of feel as to the timing? What kind of time frame
15 you think might fit.

16 MR. MAVIS: Well, in terms of the April 20th -- I
17 believe it's April 22nd now is when the study would be
18 completed and issued. At that point in time we would take
19 that study and review it and make our findings and comments.
20 To the extent we agree with it then I suspect we'd make a
21 report to that effect. If there are some issues involving
22 mitigation measures there would have to be a follow-up study
23 to identify, I guess, what those facilities would be. More
24 of a kind of an engineering/design kind of assessment that
25 would be done as kind of a follow-up study. And that's kind

1 of outlined in this Flow Chart 2 in the appendix of the
2 letter.

3 COMMISSIONER SHARPLESS: Does your flow chart
4 include time frame?

5 MR. MAVIS: It's got certain dates and these are
6 kind of general guideline dates.

7 COMMISSIONER SHARPLESS: Is this Flow Chart number
8 2?

9 MR. MAVIS: Flow Chart number 2. You see that it
10 looks like 20 days to determine if a system impact study is
11 needed and we're already past that point. Develop system
12 study agreement, and that's been completed. And then the
13 actual system study is 60 days. Then we determine, are there
14 any additions that are required. And if there aren't any
15 then the interconnection agreement can be signed. If
16 facilities are identified then we need to complete a facility
17 study. That is determine, I guess, all of the elements that
18 would be required to mitigate the reliability problem.

19 And I guess to the extent that those facilities are
20 of a major consequence we have to make sure that we notify
21 the WRTA and SWRTA groups which I mentioned previously. That
22 those may be major transmission upgrades or new facilities
23 that would have to be added.

24 COMMISSIONER SHARPLESS: So the way I see this flow
25 chart is that once you get the impact study and once you get

1 the system study and the system --

2 MR. MAVIS: The system impact study is kind of a --

3 COMMISSIONER SHARPLESS: Where's the
4 interconnection one? Oh, that's further down. It takes you
5 about -- It doesn't say how long it takes you to do the
6 review, it only says ten days to execute interconnection
7 agreement. That wouldn't be ten days after you get the
8 impact study, right?

9 MR. MAVIS: Well, that's right. I guess in terms
10 of -- As I mentioned previously, we're trying to stay plugged
11 into the study as it's ongoing so I wouldn't expect to need
12 more than maybe two weeks to finalize the review process
13 after they've issued the study.

14 COMMISSIONER SHARPLESS: Okay. So two weeks for
15 the review.

16 MR. MAVIS: Right.

17 COMMISSIONER SHARPLESS: And then what about the
18 determination? The thing that actually says after you review
19 it what you've decided. Is that part of the review process?

20 MR. MAVIS: Yes, we'd have to do an in-house review
21 with management and so forth and that could probably take
22 another week or so. We don't have all these dates and
23 everything down, this is kind of a general guidelines. And
24 as I mentioned earlier, we are in the process of putting
25 together some more detailed protocols and processes on how

1 this is supposed to work. Of course, with March 31 coming up
2 closely here we're -- It's hard to get everyone's attention
3 on some of these issues.

4 COMMISSIONER SHARPLESS: I can appreciate that.

5 MR. MAVIS: So we kind of work around them.

6 COMMISSIONER SHARPLESS: So you're not really
7 saying whether or not you can fit even within the May time
8 frame?

9 MR. MAVIS: I think we could probably fit into the
10 May time. I guess the actual date here is May 15th.

11 COMMISSIONER SHARPLESS: That's a Preliminary Staff
12 Assessment so that assumes that the staff has gotten the
13 information and has done its initial environmental review.
14 Is that not right, Mr. Buell?

15 MR. BUELL: Actually, if I recall correctly, when
16 we presented this schedule to you in the Issues Report we had
17 concluded that that would be absent any analysis of
18 downstream transmission line facilities. That Staff would
19 not be able to include any environmental assessment until the
20 FSA which would be in the July time frame. And what I'm
21 hearing from Steve is consistent with that at this point in
22 time.

23 COMMISSIONER SHARPLESS: Okay.

24 HEARING OFFICER VALKOSKY: But Mr. Buell, wasn't
25 that also premised on the fact that you didn't anticipate the

1 interconnection agreement until, I believe, May 25th or
2 anyway sometime after the PSA had been published?

3 MR. BUELL: I believe we had given you a date of
4 May 1st, we are now backed up to --

5 COMMISSIONER SHARPLESS: April 22.

6 MR. BUELL: April 22. That's an additional earlier
7 week. I don't think that that will be sufficient to include
8 that analysis in the Preliminary Staff Assessment.

9 COMMISSIONER SHARPLESS: Okay. But we are talking
10 about keeping within the original estimated time frame?

11 MR. BUELL: Yes.

12 COMMISSIONER SHARPLESS: Okay, with some
13 hesitation. I guess what I would like to ask Mr. Mavis is if
14 there's anything that the Energy Commission can do to help in
15 this process. We would like to offer our services in any way
16 that we could help in moving these things through the
17 process. And I'm going to call on the Edison person and
18 allow them to come up because they had something that they
19 wished to add to the record. Would you like to at this point?

20 MR. SCHOONYAN: Thank you, Commissioner Sharpless.
21 My name is Gary Schoonyan with the Southern California Edison
22 Company.

23 COMMISSIONER SHARPLESS: Right.

24 MR. SCHOONYAN: I'll try and keep my comments
25

1 rather brief. One thing, it is our interconnection study but
2 I want to assure the Committee that we're not going to put
3 our green visor on, go in the back room and not come out
4 until April 22nd. In essence it's our intent to work closely
5 with the ISO and the applicant with regards to the
6 performance of that study.

7 One other thing too, and correct me if I'm wrong,
8 it's my understanding that the scope associated with this
9 study at some point, from the applicant, will be shared with
10 the commission staff as well as, I would assume, others. So
11 in essence to the extent that there are elements of the scope
12 that someone has a knee-jerk reaction to, they won't. They
13 should be able to register those concerns prior to April 22nd
14 or whenever the ISO finally puts its formal stamp of approval
15 with regards to the study results.

16 COMMISSIONER SHARPLESS: How do you feel about
17 evaluating a large array of alternatives? Are you doing just
18 specifically what the applicant has asked you to do or are
19 you doing a broader review?

20 MR. SCHOONYAN: As far as alternatives we're just
21 looking at the system impacts associated with the
22 interconnection, we're not looking at a broader set of
23 alternatives, per se, at this point in time. To the extent
24 that as part of -- To the extent the impacts are significant
25 I would assume that there would be other alternatives that

1 surfaced as part of the correction and the mitigation of
2 those particular impacts.

3 COMMISSIONER SHARPLESS: Would it be Edison who
4 might also be identifying the alternatives if there are
5 significant impacts?

6 MR. SCHOONYAN: We can identify and will identify
7 impacts associated that occur on our system. It would be
8 very difficult frankly, even though we'd like to, to identify
9 impacts, say on LADWP's system to the extent that that
10 appeared to be an alternative that needed to be pursued. We
11 can't do that. We'd like to but that's their system. But
12 no, we will be identifying to the extent any exist, impacts
13 on our system and be working with the applicant, the ISO and
14 others with regards to mitigation of those impacts to the
15 extent that they exist.

16 COMMISSIONER SHARPLESS: Great. Any other comments
17 by parties? Marc.

18 MR. JOSEPH: I think that Mr. Schoonyan in part
19 responded to what I was asking and that is, an opportunity to
20 have input along the way. He said the scope of the study
21 would be available. Before April 22nd I assume.
22 Substantially before April 22nd since that defines what goes
23 on. I think what we're looking for here is an opportunity to
24 help make the study be as complete as we will need it the
25 first time around so that we don't find ourselves at the end

1 of April or the beginning of May coming to you and saying,
2 you know, we're sorry here but there's a big thing that was
3 left out. Or, they made an assumption here which is not
4 appropriate which the Commission can't rely on. We want to
5 avoid that kind of crash and burn scenario.

6 COMMISSIONER SHARPLESS: Okay.

7 MR. JOSEPH: I think there was a little bit of a
8 window opened there for that. If we can pry it open a little
9 farther I think we'll be okay.

10 COMMISSIONER SHARPLESS: Gary, could you just come
11 back for a moment. Can you be more specific about when the
12 scope of the study might be available for comment.

13 MR. WOLFINGER: We already said earlier today it's
14 going to be probably the end of this week. We're going to
15 get it from Edison, we said. Andy had mentioned that
16 earlier. So the end of this week we're hoping to supply that
17 to you. Edison is going to give it to us and --

18 COMMISSIONER SHARPLESS: Okay, fine.

19 MR. SCHOONYAN: Actually, all we're waiting on now
20 are comments from the ISO, final comments from the ISO.

21 COMMISSIONER SHARPLESS: And he's here so he can
22 give them to you.

23 MR. SCHOONYAN: He's not leaving.

24 MR. MAVIS: By five o'clock this afternoon.

25 COMMISSIONER SHARPLESS: Stan is doing his job

1 here. He's making it tough on me, he wants me to nail down
2 some time frames. Mr. Mavis, I'm not sure. Did you say
3 that you would be able to get the ISO determination by May
4 15th?

5 MR. MAVIS: Yes, I believe we could make that date.

6 COMMISSIONER SHARPLESS: Okay, then we will include
7 that in the schedule and reflect it, then hopefully we could
8 stay on track. Again, I would offer, Mr. Mavis, if there is
9 anything that we can do to help please call on us. We've got
10 staff resources and commissioner resources and we will be
11 more than willing to try to wade through any issues that
12 might come up that you feel we can help on so please feel
13 free.

14 MS. HOUGH: Could I ask one last question about
15 this? I'm sorry. May 15th will let us know whether or not
16 you're going to be able to go forward with -- the applicant
17 is going to be able to go forward with the interconnection
18 agreement with the transmission owner, but if there are some
19 problems identified it doesn't address the question of what
20 happens next. Then you go into the process that's identified
21 in your Chart 4; is that correct?

22 MR. MAVIS: No, Chart 4 -- Well, Chart 4 we would
23 get into and we're already kind of getting into that right
24 now as I mentioned earlier. That's kind of the WRTA and
25 SWRTA review. We did that at kind of the front end.

1 MS. HOUGH: And that will be finished --

2 MR. MAVIS: And to the extent now there's any major
3 transmission facilities that are required then we would have
4 to notify them again that the project has grown from its
5 original scope. That would have to be submitted again to the
6 RTA organizations. But in terms of May 15th, we would review
7 -- have reviewed the Southern California Edison reliability
8 assessment and come to a conclusion as to whether we agree
9 with it or disagree with it. And if we disagree with it what
10 would be required for it to comply with our objectives.

11 MS. HOUGH: I guess the question I was wondering
12 was, if the study were to identify you to require system
13 additions, how long does finishing up that process that's
14 identified on Flow Chart 4 take after May 15th.

15 MR. MAVIS: It's actually Chart 2, Flow Chart 2.
16 Well, since we --

17 MS. HOUGH: I was referring to the coordinated
18 planning process. It says, see Chart 4.

19 MR. MAVIS: Right, that's at the end.

20 MS. HOUGH: Right.

21 MR. MAVIS: That would be at a point at which major
22 facilities would have been required. The notification
23 process, that would be sent to the RTA's. And I'm not sure
24 but I think there are certain time limitations on that as
25 well. I'm not sure if it's 30. I think it might be 30 days,

1 perhaps 60.

2 MS. HOUGH: Okay.

3 MR. MAVIS: Which they have to make comments on the
4 project.

5 MR. JOSEPH: Can I try to clarify with a related
6 question? Are you saying that by May 15th you will have
7 determined what additional facilities are needed, if any?

8 MR. MAVIS: Well, that depends, I guess, on the
9 transmission owner reliability assessment. First of all,
10 they're going to assess or identify any potential reliability
11 violations, okay, to the criteria. And there's three
12 criteria. There's the planning center's, WCC reliability
13 criteria and the transmission owner's internal planning
14 criteria. And at that point they've identified any major
15 violations to the criteria.

16 Then I guess during this phase they would also
17 identify any potential mitigation measures that would involve
18 maybe one or two options, three options, to mitigate those
19 violations then come up with a preferred option. Then we
20 would review that to then make a determination of whether we
21 agree with those mitigation measures or not and then perhaps
22 add some recommendations of our own. But what I mentioned
23 earlier is hopefully during the process we can be plugged
24 into the process and avoid having, you know, a negative
25 declaration, if you will, at the end of the process.

1 MR. JOSEPH: So all the process you described is
2 completed by May 15?

3 MR. MAVIS: Yes.

4 COMMISSIONER SHARPLESS: Mr. Mavis, you've been of
5 immeasurable help here. Before we break and say thank you
6 very much for taking your time to come here and help lay the
7 foundation for the process there was something in the staff
8 comments that I wanted to raise that seemed as though it was
9 an issue that should be picked up and dealt with, perhaps
10 outside of this forum but not to let it go by without
11 recognizing it and perhaps suggesting to Staff how we might
12 deal with it. This deals with an MOU between CEC and the ISO
13 on these matters. Has that process -- Is that just a
14 suggestion that needs a nod from the Commissioners to go
15 forward or is that a process that's already started?

16 MS. HOUGH: I believe the MOU process was discussed
17 at the meeting between the staff and the ISO in early
18 February. I don't believe it's gone any farther since then
19 although I think both parties are interested in pursuing it.

20 COMMISSIONER SHARPLESS: Okay. So Staff would
21 recommend that a --

22 MS. HOUGH: Presumably at some point Staff will
23 bring to the Siting Committee or some other committee--I'm
24 guessing here that the Siting Committee would be the
25 appropriate committee--our recommendation that the Commission

1 enter into an MOU.

2 MR. BUELL: That MOU would be generic and I doubt
3 it would be in place in time to dictate the relationship
4 between the two agencies on this project.

5 COMMISSIONER SHARPLESS: Well, that's the way I
6 read it, that's why I left it until the very end. Just to
7 find out what you needed and what progress was being made
8 along that line that way. Well, we'll have the relationships
9 and the process well worked out and we'll be on our way.
10 Again I want to thank you, Mr. Mavis, for coming and we give
11 you all our good wishes for March 31st.

12 MR. MAVIS: Thank you, I appreciate it.

13 COMMISSIONER LAURIE: Madam Chairman, in closing --

14 COMMISSIONER SHARPLESS: Yes.

15 COMMISSIONER LAURIE: A closing argument on this
16 point. We raised this issue at our last hearing when we were
17 in Victorville.

18 COMMISSIONER SHARPLESS: The MOU?

19 COMMISSIONER LAURIE: No, the issue of our
20 relationship to ISO vis-à-vis what our responsibilities are
21 as far as this siting process goes.

22 COMMISSIONER SHARPLESS: Right.

23 COMMISSIONER LAURIE: I think it remains a critical
24 question and I think the discussion today was very fruitful
25 in educating us. I've got to tell you that I feel a degree

1 of confusion as of this moment and I'm going to -- I need
2 further education on the issue.

3 My concern is this: I don't have a good sense as I
4 sit here today where our environmental analysis must stop.
5 That is, clearly the project has a transmission element to
6 it. We must analyze the environmental impacts of that
7 transmission element. But if the element decrees that there
8 must be upgrades to the system are we obligated to study the
9 environmental impacts of those upgrades. Well, that's huge.

10 MS. HOUGH: I'm sorry, I think that we all answered
11 that question, at least the way I read all three briefs, as
12 saying yes.

13 COMMISSIONER LAURIE: Well, could that
14 environmental analysis not take years?

15 MS. HOUGH: No, I don't think so. What we have
16 typically done and what I believe was contemplated by the
17 parties that provided responses is simply looking at those
18 system upgrades that would be identified through the process
19 that we've just been discussing as necessary as a result of
20 this project.

21 In many instances those upgrades are things that
22 happened within the boundaries of substations and there are
23 no environmental effects. Sometimes they are things such as
24 the construction of additional lines, in which case the staff
25 will assess, and other parties can assess, the environmental

1 impacts of those. It's something that we have done in past
2 cases and would propose to continue to do the same way in
3 this case.

4 COMMISSIONER LAURIE: Okay.

5 COMMISSIONER SHARPLESS: We'll adjourn shortly.
6 Just in order to wrap up this subject: I think that we've
7 established some process steps and our schedule will reflect
8 those decisions that were made today and when scoping reports
9 may be available and input. On March 25th we have another
10 opportunity to review the progress made and we will perhaps
11 be further along and more knowledgeable in our process by
12 then. I think at this point in time we've exhausted the
13 subject, and us in the process, and I feel as though that, as
14 a nod to Commissioner Laurie, I think what the MOU will do
15 will help further elucidate concerns, issues and
16 relationships. But given the issues that have been talked
17 about today I think we're on a pathway and we'll see at the
18 next stop whether we need to revisit, review or further
19 expand on where we are today. Does anybody have any comment
20 about that? Okay? Okay. It's 20 to 1 according to this
21 clock. Can we be back by an hour from now? Give you a break
22 and we'll take up the last two issues, three, I guess,
23 Project Configuration, Decommissioning and Closure and Data.
24 Thanks.

25 (Thereupon, the luncheon recess was taken off the record.)

1 A F T E R N O O N S E S S I O N

2 HEARING OFFICER VALKOSKY: Mr. Thompson, I just
3 wanted to make sure I was clear on this. I understood
4 Mr. Wolfinger to say that the applicant will provide the
5 parties with the scope of the interconnection study by the
6 end of the week; is that correct?

7 MR. THOMPSON: Yes. That will be the scope,
8 providing we get it back in time. They're supposed to get it
9 to us by the end of the week. And we'll also provide the
10 contract with Edison.

11 COMMISSIONER SHARPLESS: So you would be providing
12 that to CEC Staff by --

13 MR. THOMPSON: We were actually going to file it,
14 the original 12 plus service list.

15 COMMISSIONER SHARPLESS: Okay, great.

16 HEARING OFFICER VALKOSKY: Okay, it will go to the
17 service list then.

18 COMMISSIONER SHARPLESS: By Friday?

19 MR. THOMPSON: We have not seen it yet so that's --

20 COMMISSIONER SHARPLESS: Within the next ten days?

21 MR. THOMPSON: -- our anticipation.

22 COMMISSIONER SHARPLESS: Within the next ten days?

23 MR. THOMPSON: Yes, when we get it we will.

24 COMMISSIONER SHARPLESS: Okay.

25 MR. THOMPSON: And we're supposed to get it at the

1 end of the week.

2 HEARING OFFICER VALKOSKY: Okay. So if we set a
3 scheduling date for a week from today will that give you a
4 sufficient comfort level?

5 MR. THOMPSON: Yes.

6 HEARING OFFICER VALKOSKY: Okay, all right, great.
7 The last question I have is for Staff. Mr. Buell or
8 Ms. Hough, on page nine of your filing you indicate in part
9 that the Committee may rely on an ISO determination in making
10 its findings regarding applicable reliability criteria. I
11 wonder if you could expand just a little bit upon what you
12 mean by *rely*. Is it *rely* in the sense that it's a piece of
13 evidence that the Committee would consider or is it *rely* in
14 the sense that the Committee is essentially bound by the
15 ISO's determination as to system reliability impacts?

16 MS. HOUGH: As used in this sentence it means that
17 you could use it as a basis for your findings that you are
18 required to make under the Warren-Alquist Act on conformance
19 with standards, that would include reliability standards.
20 Staff is recommending that you do in fact rely on the ISO
21 determination for determination of whether or not the project
22 complied. Both for identification of the standards and the
23 project's compliance with those standards.

24 HEARING OFFICER VALKOSKY: Okay, *rely* in the sense
25 of conclusively rely then?

1 MS. HOUGH: Staff is recommending that, yes.

2 HEARING OFFICER VALKOSKY: Okay.

3 MS. HOUGH: I would point out though that we're not
4 saying that you need to. We're saying that you can choose to
5 do so, Staff is recommending that you do do so.

6 HEARING OFFICER VALKOSKY: Okay.

7 MR. JOSEPH: Mr. Valkosky.

8 HEARING OFFICER VALKOSKY: Mr. Joseph, sure.

9 MR. JOSEPH: I disagree with that answer, I think
10 that overstates the situation you're in. The ISO is another
11 entity out there. It's a corporation, it's not a state
12 agency. It has its mission and it has its abilities. I
13 think it is certainly appropriate to take it as a piece of
14 evidence, perhaps a piece of evidence given considerable
15 weight, but it's possible that the ISO could make a mistake
16 and the Commission should be open to hearing contrary
17 evidence. These studies are very complicated and if the ISO
18 makes a mistake and another party identifies that mistake
19 another party should be able to come in and say, Commission,
20 they relied on a factual assumption here that's wrong.

21 HEARING OFFICER VALKOSKY: Mr. Joseph, in the event
22 that another party viewed the ISO as having made a mistake,
23 are you aware of any avenue of appeal or correction that you
24 would have within the ISO organization?

25 MR. JOSEPH: The answer is no. As I understand the

1 ISO structure this would be a staff determination, this would
2 not be something which would rise to the governing board
3 level. The governing board would not be making a
4 determination as to what was required for the
5 interconnection, this would be a staff function. And unless
6 something goes to the governing board and a member of the
7 governing board exercises his or her right to appeal to the
8 oversight board I think that there may not be any appeal
9 right within the ISO structure itself.

10 HEARING OFFICER VALKOSKY: Anything less than a
11 formal appeal right that would be available?

12 MR. JOSEPH: We could certainly go and talk to them
13 and say, hey, did you realize you made a mistake here. Do
14 you want to, you know, correct your recommendation or review
15 this again in light of some new information. But I don't
16 know of any structure for that to happen.

17 HEARING OFFICER VALKOSKY: Okay.

18 COMMISSIONER SHARPLESS: But, you know, that's kind
19 of a different issue than what we were talking about earlier.
20 One was a scoping issue, one was the expansiveness of the
21 study and the ISO's review of whether every possible
22 alternative if you could consider them feasible would be
23 reviewed in the study. The issue of the ISO making a quote,
24 unquote, mistake on reliability merely raises a question of
25 who else is in a position to make that type of assessment.

1 Who else is in a position of having the information that the
2 ISO has in making an assessment that would point out
3 omissions or facts that should be considered otherwise.

4 MR. JOSEPH: Actually, I think all the information
5 the ISO uses is in the public domain. The information that
6 goes into these studies is widely available. These are after
7 all public utilities, they report to various state agencies
8 and to FERC for that matter. And these reliability studies
9 and the data sets that go into them are widely available.

10 COMMISSIONER SHARPLESS: But they're going to be
11 based on the studies that are done by the, in this case,
12 Edison.

13 MR. JOSEPH: That's right.

14 COMMISSIONER SHARPLESS: And so there could be an
15 issue with the Edison--they're not here--the Edison study--
16 they're at La Bou--the Edison study or there could be an
17 issue of the ISO's review. I don't know if all of this
18 information is in the public domain, no one has fully
19 discussed that issue. All that information used to be in the
20 public domain. The extent to which that information is still
21 in the public domain is not clear for me. And who has the
22 capability of doing, even if you have that information who
23 has the ability to look at that information and understands
24 systems that would sort of review the review, is not clear to
25 me. Staff, do you have an answer to that question?

1 MS. HOUGH: I hope so. Traditionally utilities
2 performed the studies that were necessary and those got
3 brought into our process. In fact, I believe they used to be
4 a requirement for application completeness. The process that
5 Staff would undertake would be to identify critical
6 assumptions that were used in those studies and assess their
7 reasonableness. We have one of the transmission staff here
8 who could talk a little bit more about that if that would be
9 helpful.

10 I think that the difference is that now what
11 happens is that you've got the ISO kind of on top of that and
12 they're kind of responsible as well for looking at those
13 studies and assessing their reasonableness. The ISO is not
14 going to independently perform the same kinds of studies that
15 the transmission owner does. They are simply going to be
16 doing some sort of a reasonableness review and applying, I
17 believe it's WSEC and NERC and the transmission owner's own
18 criteria to assess system reliability.

19 And the reason that Staff is recommending that you
20 rely on that is that it seems rather duplicative to have two
21 agencies doing the same kind of process. I would agree with
22 Mr. Joseph that if there is clear evidence before this
23 commission of some major deficiency or major problem with the
24 studies the Commission should not ignore it. However, I
25 think that Staff's belief is that the ISO has the capability

1 and will be in fact identifying any problems with the studies
2 and will come up with its own recommendations and we believe
3 that it's appropriate for you to rely on those. Does that
4 answer your question?

5 COMMISSIONER SHARPLESS: Well yes, I think it did.
6 I think that, you know, the issue of *rely upon* is do you
7 simply accept the report without review and make all your
8 decisions on that. Is that your question? Is that what the
9 Commission is going to do?

10 MR. JOSEPH: I think that would be inappropriate.
11 I think there are a number of people --

12 COMMISSIONER SHARPLESS: Stop there. Is that what
13 you think that Ms. Hough was suggesting?

14 MR. JOSEPH: Well, based on the last comment I
15 think the answer is, no.

16 COMMISSIONER SHARPLESS: Okay.

17 MR. JOSEPH: Initially I thought it was, yes.

18 COMMISSIONER SHARPLESS: Okay. So I think that
19 with Caryn's, Ms. Hough's latest explanation we've just
20 resolved the issue of *rely*. And now I ask Mr. Valkosky if
21 he's got his point clarified?

22 HEARING OFFICER VALKOSKY: I do, thank you.

23 COMMISSIONER SHARPLESS: Okay, thank you. Hello,
24 Commissioner Laurie.

25 COMMISSIONER LAURIE: Madam.

1 COMMISSIONER SHARPLESS: Let's go now to the other
2 remaining issues.

3 DECOMMISSIONING AND CLOSURE

4 And unless someone wants to reverse the order can
5 we start on Decommissioning and Closure. We'll ask the
6 applicant to open up the discussion with your position.

7 MR. THOMPSON: On both?

8 COMMISSIONER SHARPLESS: Decommissioning/Closure,
9 that's one topic.

10 MR. THOMPSON: Oh, I'm sorry. We still go with the
11 remarks that we submitted to the Committee. In note in our
12 remarks, we kind of made our case, if you will, or at least
13 an indication of the position or positions that we will take
14 in the case and I think the AFC addresses decommissioning for
15 this project as well.

16 Because of the market, and in my opinion the
17 remarkable sale price of 35 year old comparable fuels plants,
18 you know, and the cleanliness of the site compared to sites
19 that could contain nuclear material, hazardous waste
20 material, coal piles, those kinds of things, we don't think
21 decommissioning and closure should be that great of a
22 problem. We will submit a plan to dispose of any hazardous
23 wastes and to close the plant according to LORS that exist at
24 the time of closure.

25 I think that we in that sense are one step beyond

1 the staff. Staff is now, as I understand the remarks, is now
2 in the process of evaluating decommissioning and closure for
3 this project while at the same time having one eye on the
4 generic proceeding to look at the same issues. We are
5 comfortable that the issue can be aired in this proceeding
6 and that either myself or the staff or others will have the
7 opportunity to make our case, almost separate from the
8 generic proceeding. Because we don't know when the generic
9 proceeding, if the generic proceeding will be able to give us
10 guidance in this case. And because the Staff has a pretty
11 short time frame here to come up with their Preliminary Staff
12 Analysis it probably won't be able to give them much help.

13 So because of that I guess I would suggest that we
14 continue the way we have in previous cases, and it looks to
15 me like the staff is doing that, evaluating decommissioning
16 and closure requirements for this project on a single project
17 basis. And we have done the same and our arguments are in
18 our file.

19 With regard to the union. We don't agree much. We
20 think that many of the proposals are an attempt to micro
21 manage something that's going to occur well into the future
22 if it occurs at all. You've asked me to characterize
23 differences. I guess to keep it to a one day hearing I
24 wouldn't want to characterize every single difference between
25 ourselves and CURE but suffice it to say I think that

1 ourselves and the staff, or at least our idea of where the
2 staff is, is pretty close and probably not so with CURE.

3 COMMISSIONER SHARPLESS: I think it was kind of
4 interesting when you look at the spectrum of views on this
5 issue. From your description of reviewing risk and then
6 attaching the possibility that risk on merchant facilities
7 are going to be much lower in the new environment than they
8 might have been even in the past because of the financing
9 requirements and requirements by venture capitalists and
10 financial institutions versus another perspective which is
11 viewed that there actually is going to be a higher risk
12 because of the uncertainty in the market place.

13 That seems to be the spectrum that would motivate
14 mitigation for one possibility over the other possibility.
15 And Staff is sort of in the middle, taking the middle track
16 which is, you know, to make sure that all of the LORS have
17 been followed and to provide for a closure plan, what is it,
18 12 months before a closure occurs. Is that right, Mr. Buell?

19 MR. BUELL: I'd like to defer to Mr. Edwards who is
20 our senior of the compliance unit.

21 COMMISSIONER SHARPLESS: What I'm really trying to
22 do is just say that I know the spectrum is really motivated
23 by what is perceived as a risk factor involved and public
24 health and safety issues. And on the one side if you buy the
25 argument that with the new environment there's built into the

1 system the possibility that these plants not only will be
2 less risky but will be having a life beyond the 30 year period
3 --

4 I don't know if I buy into the argument that what
5 has happened recently with respect to the market price of old
6 facilities is going to be the norm rather than the exception.
7 Because, you know, people want to get into the market and
8 there's many ways to get into the market. One way to get
9 into the market, of course, is to buy facilities. So whether
10 or not you use that as your principle for indicating what you
11 think is going to happen in the future, I think you can put
12 that aside and rather look at the issue from a risk
13 standpoint.

14 I think in a lot of ways that we don't quite know
15 where those risks are going to be and so Staff has taken sort
16 of a cautious middle road. That's how I have read the
17 various filings from the various parties on this issue and I
18 think the Committee is going to have to sort through that.
19 Fortunately, again, we have Commissioner Laurie here who is
20 the Presiding Member on the Siting Committee that's going to
21 be working at this in the long-term.

22 But I think you're right. We're not going to be
23 able to rely on that process to necessarily guide us in this
24 process. Rather, we will have to make judgements in this
25 process that will guide us on this process and the longer

1 term issue will be dealt with in the Siting Committee. But
2 I'd like to move from that discussion from your position to
3 the staff's position and perhaps let the staff characterize
4 its own position and then let --

5 MS. HOUGH: I think you did a fine job.

6 COMMISSIONER SHARPLESS: And then let CURE
7 characterize their position.

8 MS. HOUGH: Thank you, Commissioner Sharpless.

9 Basically, what Staff is proposing to do is to conduct an
10 analysis by technical area of any potential issues that would
11 be associated with decommissioning. Although we based on the
12 current laws we know that they may have changed by the time
13 the plant has decommissioned. Staff's objective as always
14 will be to protect public health and safety, that will be the
15 guiding criteria.

16 We specifically expect to include or identify any
17 specific project features that we think might be problematic
18 when it comes time for facility closure. We anticipate that
19 we will recommend that you adopt a general condition
20 requiring a closure plan as you pointed out 12 months prior
21 to advance. We also will be looking at the need for some
22 sort of financial assurance to deal with removal of hazardous
23 or toxic materials in the event of an unexpected closure of
24 the plant. And we can't tell you whether or not that
25 analysis is going to indicate whether we think such a

1 requirement is appropriate but it may well.

2 So what you'd end up with is a set of, is a set of
3 identification of specific features that may need closer
4 attention paid to them as the project gets closer to
5 decommissioning. If necessary a recommendation for some kind
6 of financial assurance and then a requirement that the
7 applicant present a detailed closure plan 12 months prior to
8 closure.

9 COMMISSIONER SHARPLESS: Are you going to do that
10 screening and then make that Staff Analysis available before
11 the Preliminary Staff Assessment or is that going to be part
12 of the Preliminary.

13 MS. HOUGH: That will be part of our testimony.

14 COMMISSIONER SHARPLESS: Okay. And I believe I
15 read in the applicant's position as well that you made
16 specific reference to how you would treat hazardous materials
17 and a closure plan?

18 MR. THOMPSON: Yes.

19 COMMISSIONER SHARPLESS: I think you said that you
20 intend to address that issue in your hazardous plan --

21 MR. THOMPSON: Right.

22 COMMISSIONER SHARPLESS: -- study?

23 MR. THOMPSON: Yes, that's correct.

24 COMMISSIONER SHARPLESS: So how you would deal with
25 it in a closure decommissioning scenario would be part of

1 that study?

2 MR. THOMPSON: Yes.

3 COMMISSIONER SHARPLESS: Okay. CURE.

4 MR. JOSEPH: Thank you. I'm not sure how many
5 opportunities I'm going to have to agree with Mr. Thompson
6 but I want to take this one. (Laughter).

7 COMMISSIONER SHARPLESS: Wait a minute, you don't
8 know what he's agreeing to.

9 MR. THOMPSON: What did I say?

10 MR. JOSEPH: On the question of risk the AFC itself
11 says: 'Advances in technology or changes in the economy,
12 environment or regulatory climate could compel a repowering
13 or premature shutdown of the facility prior to the 30 year
14 anticipated operating life.' That's in the Decommissioning
15 section, 3.9-1. That's right; I think the application was
16 right. And the hypothesis that a merchant facility faces
17 less risk is not right.

18 I can come up with at least as many reasons why the
19 merchant facility is at much greater risk than prior
20 facilities. There can be changes in fuel prices, changes in
21 the market for electricity. The PX could fail after four
22 years when no one is compelled to use it and there might not
23 be a ready market for the output of the plant. The market
24 could be dominated by must-run plants, as many people claim
25 will happen. There could be a major growth in distributive

1 generation, there could be major equipment failure, there
2 could be advances in technology that make -- advances in
3 transmission technology that make generation at the fuel
4 source much more economically efficient than generation near
5 the load. That is, it will be cheaper to transmit the
6 electricity than to transmit the fuel. Or the plant just
7 could become obsolete because of changes in technology.

8 These are just sort of a list of things you can
9 come up with off the top of your head. And at this point
10 there's no way for the Commission to know, really, who has
11 got the better estimate of future risk. It's a complete
12 unknown at this point.

13 COMMISSIONER SHARPLESS: I think that all of those
14 things you outlined are true of anybody that's in the
15 marketplace, number one. But number two, what would your
16 response be to the fact that financial institutions are going
17 to be looking for a certain level of, a certain level of
18 financial coverage of their investments to assure that they
19 get return on their investment? So that perhaps -- And I'm
20 not saying this is true, I'm just laying this out to get some
21 response from you. Perhaps the merchant facilities are going
22 to have to meet a new higher level of operation and certainty
23 than those which were built under a rate-payer scenario. To
24 that you would respond how?

25 MR. JOSEPH: Those lenders may be right in their

1 estimation of the likelihood that they will have their loans
2 paid and they might be wrong, lenders have been wrong before.
3 And in fact, we have bankruptcy courts, we have lenders
4 foreclose. These things happen on a regular basis. Lenders
5 employ their analysts and sometimes they're right. They make
6 an estimate as to what kind of return they're going to
7 require on their loans and sometimes they're wrong. And the
8 Commission's responsibility really is only to assure that if
9 they are wrong there will be money available to take care of
10 the facility. And rereading --

11 COMMISSIONER SHARPLESS: Again, that depends on --
12 What you do in that arena depends on risk. What you're
13 really trying to do is you're really trying to manage risk
14 here, risk to health and safety. And if you paint a really
15 sort of scary scenario of all of the possibilities the
16 financial risk to new facilities coming in could be so great
17 that California could damage itself by making it more
18 difficult for new facilities, cleaner facilities, more
19 efficient facilities from coming in at all. Then we've had
20 really the opposite effect of what you want to do in the
21 marketplace, which is encourage cleaner, more efficient
22 generation and get rid of the old garbage.

23 MR. JOSEPH: I think where that leads to--

24 COMMISSIONER SHARPLESS: You know, so you're
25 talking about public safety and health and policy. Well,

1 there's a part on the other side of the equation that one has
2 to be -- It's not just letting people come into the
3 marketplace to make a profit, but there's also the other side
4 of the equation on new, efficient and cleaner generation
5 that's going to serve public policy objectives and goals as
6 well. And you don't want to set up a scenario where you've
7 caused such a financial burden that these guys don't see
8 California as a very attractive market.

9 MR. JOSEPH: I understand that. I don't think
10 there really is a conflict in what we're asking the
11 Commission to do. I think what's important for the
12 Commission to do up front in its licensing decision is ensure
13 that if it comes to pass that the project fails, perhaps
14 through no fault at all of the operators and the owners. But
15 if that comes to pass, that there is money available to take
16 care of the environmental problems that could result.

17 COMMISSIONER SHARPLESS: And all the different
18 mechanisms that you have offered come at a cost, don't they?

19 MR. JOSEPH: They do come at a cost but, you know,
20 there are things like insurance which come at a limited cost.
21 You spread that risk out among lots of different purchasers.
22 There are risk-spreading mechanisms available so that no one
23 project, you know, bears all of the risk. And I think it's
24 appropriate to look at, to figure out up front what is the
25 magnitude of the possible costs to properly close the plant

1 and what is a way for the Commission to be satisfied that if
2 the project is forced to close there will be money available.
3 Then you can look at mechanisms to do that at the least
4 possible cost to the applicant.

5 COMMISSIONER SHARPLESS: Can we get some response
6 from -- I feel like I'm up here debating myself.

7 MR. THOMPSON: No, we welcome it.

8 COMMISSIONER SHARPLESS: My own debate?

9 MR. THOMPSON: We think that there's a vast
10 difference between many of the plants that have been built
11 over time, not only those built by the utilities. We would
12 question the wisdom, for example, of PG&E's board of
13 directors voting to build nuclear plants.

14 COMMISSIONER SHARPLESS: Well, that's an easy one.

15 MR. THOMPSON: I wanted to start at the easy end of
16 the spectrum.

17 COMMISSIONER SHARPLESS: We know the outcome of
18 that one.

19 MR. THOMPSON: But also under contracts where we
20 had biomass and solar and some of the other technologies that
21 were more cutting-edge, it seems to me, had a much greater
22 risk of premature closure and decommissioning issues. This
23 is gas-fired cogen where, you know, there's plentiful gas
24 supplies in western Canada and the western US. You know, the
25 machines -- And it's one of the things that the investors are

1 going to require is that we use tried and true machines and
2 tried and true technology, albeit it's the latest advances.

3 And I think that if the Committee looks at it in
4 kind of an application by application basis with those kinds
5 of factors that have been laid out I suspect you'll see or
6 come to the conclusion that dealing with the decommissioning
7 issue in this case should be relatively easy.

8 I think that the -- I think what you'll find is
9 that the Staff Analysis will take these issues into account,
10 the availability of fuel and the equipment and all. The fact
11 that it's in an industrial area and will probably continue to
12 be in an industrial area because it's next to an airport.
13 And if Staff does something that we don't expect in their
14 report -- For example, if their testimony has some
15 conclusions that we disagree with we can put on witnesses to
16 show that scrap value is worth more than the cost to pull it
17 out and issues like that. But I guess what I'm suggesting
18 is that the staff's approach of dealing with it on a
19 discipline by discipline basis I think will put these issues
20 into a perspective that are more easily understood.

21 COMMISSIONER SHARPLESS: Let me ask Marc. Marc,
22 you don't oppose the step by step screening analysis, you're
23 just suggesting that -- Are you concerned that the step by
24 step analysis won't wind up looking at how to protect the
25 health and safety risk to a project?

1 MR. JOSEPH: I think in light of the discussion
2 we've had, in light of what we have filed in this proceeding,
3 my confidence level that the staff will compile the issue
4 area by issue area result and determine an overall
5 requirement for assuring there is money available is now more
6 likely than it was before.

7 COMMISSIONER SHARPLESS: Okay.

8 MR. JOSEPH: There's one other point I think we
9 could just make. You know, on one hand it's true, this is a
10 merchant facility which requires private lenders, these are
11 not utility facilities. On the other hand, the applicant
12 here is a limited liability company. As far as we know this
13 plant will be its only asset; and projects have failed
14 before. And if the project fails there will be nobody to
15 turn to unless the Commission establishes something up front.

16 COMMISSIONER SHARPLESS: Would the applicant like
17 to deal with the issue of a limited --

18 MR. THOMPSON: I think it depends on the use of the
19 term *failure*. If there's a disaggregation between the price
20 of fuel, between the price of natural gas and the price of
21 power on the PX such as that fuel increases and power
22 decreases, first goes the equity return, second goes the debt
23 return. So now the debt will restructure but you're still
24 left with a project that is more efficient than most of the
25 generation available in the basin. And it's going to run if

1 it can profitably -- if it can produce energy into the grid
2 at a price that's competitive. You know, the equity owners
3 may not make a return and the debt may restructure or be down
4 to something very small but the machine itself will be
5 running.

6 MR. JOSEPH: Based on our current analysis I think
7 that's correct. And the problem is there are things which
8 may happen in the future that may render it incorrect. In
9 the last five years there has been a tremendous increase in
10 the efficiency of gas-fired generation. If there's the same
11 tremendous increase in the next five or ten years as there
12 has been in the last five years what is now state of the art
13 may become a stranded asset. It may be obsolete.

14 (Thereupon, tape 2 was changed
15 to tape 3.)

16 COMMISSIONER SHARPLESS: What is your time period?
17 Five to ten years?

18 MR. JOSEPH: Yes. That's much shorter than the 30
19 year planned life. It could happen.

20 COMMISSIONER SHARPLESS: It's hard to develop any
21 up front plan to deal with the possibility of that future
22 occurrence. I'm not sure what you would recommend in a
23 situation like that.

24 MR. JOSEPH: Let me clarify. I don't think a
25 detailed closure plan is necessary now. I think the only

1 work that needs to be done now is enough evaluation of how
2 closure would take place to put a boundary on how much money
3 it would cost. The details certainly can be left until the
4 time comes. And maybe, you know, Mr. Thompson, is right and
5 the time may never come. What we need now is a general sort
6 of evaluation to put a boundary on the amount of money which
7 has to be set aside so that if this limited liability company
8 fails there will be somebody to turn to.

9 COMMISSIONER LAURIE: Madam Chairman. I'm sorry.

10 COMMISSIONER SHARPLESS: Commissioner Laurie, no,
11 go ahead.

12 COMMISSIONER LAURIE: I'd be interested in Staff --
13 And I don't know where we're going to end up in our rule
14 making but a starting point would be an examination of
15 California's Mining Reclamation Act. I do see some
16 similarities and I would like to have a full education and
17 understanding as to what appears in that Act that can give us
18 some guidance, especially on the financial security issue.
19 That is a question that does pose difficulties for me. I'm
20 not sure the Mining Reclamation Act has financial securities
21 in it, I think it may, and I'd be very interested in an
22 examination of those conditions. That is, how do you
23 possibly forecast the financial cost of a plan that has not
24 as yet been developed. That poses some difficulties for me.
25 I would be interested in a discussion of

1 alternatives regarding financial security. What kind of
2 financial securities can we keep in place for 15 or 30 years
3 at reasonable cost to applicants. And that would be a
4 starting point for my educational process.

5 MR. JOSEPH: Commissioner Laurie, if I may.

6 COMMISSIONER LAURIE: Sure.

7 MR. JOSEPH: In our submission we also cited this
8 Act and the Act does have elements in it regarding financial
9 assurances.

10 COMMISSIONER LAURIE: Okay, thank you.

11 MR. WELCH: If I could make just two comments on
12 that. I think that Commissioner Sharpless, she brought up a
13 very good about that a lot of these financial actions and all
14 could act to make a financial disincentive to building
15 projects here. So I think that a lot of the considerations
16 that need to be made need to have a risk weighted feature to
17 them as to how likely it is, you know.

18 Some things are easier. For example, we're going
19 to have aqueous ammonia on site when we're operating. It
20 would seem likely to make provisions to make sure that that
21 tank could be emptied out when we stopped operating, it
22 wouldn't be left there. But there are other things that may
23 be more costly that really if you look strongly at the
24 likelihood of the plant shutting down are not worthwhile to
25 create that cost on to the developer.

1 The second point is just that though there is the
2 likelihood that technology will continue to become most
3 efficient it's not the most efficient plant that's the first
4 to be shut down when a more efficient one comes on, it's the
5 least efficient. And being that the amount of generation
6 that's in California, the likelihood that technology over the
7 next five or ten years would cause them to build -- What are
8 we at, 60 gigawatts of load?

9 COMMISSIONER SHARPLESS: Are you talking about our
10 assessment?

11 MR. WELCH: Right.

12 COMMISSIONER SHARPLESS: The ER-96 assessment?

13 MR. WELCH: Right.

14 COMMISSIONER SHARPLESS: All right.

15 MR. WELCH: That all of those -- That there would
16 be that many new power plants built would be surprising.
17 This building would be pretty active, I would guess. So I
18 don't -- I think we have to take in, as your saying, in
19 consideration how likely is it that the plant would shut down
20 and that there are certain things that are more costly than
21 others. But if the original deal is put in and it causes the
22 initial owner of the project to declare bankruptcy before
23 closed upon, most likely what happens to these projects that
24 someone can buy in, buy off the loan at perhaps a fraction of
25 the initial capital cost, but continue to operate the plant.

1 Because in an efficient plant like this the operating costs
2 are going to be lower than most of its competition.

3 COMMISSIONER SHARPLESS: I wish I could count on
4 the fact that only the more efficient plants would be
5 running. Certainly in the early part of the market I'm not
6 sure that that's going to be the case inasmuch as we have
7 must-run plants. But certainly later on in the market,
8 hopefully --

9 MR. WELCH: We're talking long term.

10 COMMISSIONER SHARPLESS: Long term. And I think
11 perhaps there is a concern of what happens not only in the
12 long term but the short term.

13 MR. JOSEPH: This is not really the right forum to
14 engage in a long debate about probabilities but it doesn't
15 take all of the less efficient plants to be displaced. It
16 merely takes a single plant using the same transmission path
17 which is more efficient to completely eliminate -- And if
18 there's congestion then it will always be the more efficient
19 plant which is dispatched and the now less efficient plants
20 which is not dispatched. So, you know, it takes only one to
21 render this plant unable to compete.

22 COMMISSIONER LAURIE: Madam Chairman, I feel
23 terribly uncomfortable debating the likelihood. Unless there
24 is zero likelihood then discussing decommissioning and closure
25 is a relevant topic. So I don't know whether the

1 likelihood of this plant closing is 5 percent, 50 percent or
2 70 percent, and frankly, that is not going to affect my need
3 to assuring that there's an adequate closure plan. As long
4 as there is anything greater than zero likelihood then I'm
5 going to be very interested in assuring that the rate payers
6 -- the tax payers are not forced to deal with a public
7 nuisance. An abandoned plant, an abandoned merchant plant
8 will be a public nuisance and I'm not going to have the rate
9 payers carry that obligation.

10 Now, the extent of the plan is relevant. The
11 flexibility and discretion we retain I think is essential,
12 assuring that our regulation and our conditions are such so
13 that they are not a substantial disincentive towards
14 construction is important. But I am not of the view that the
15 rate payers should bear the risk. So I don't know what else
16 is on the table today.

17 COMMISSIONER SHARPLESS: Bob I think the staff has
18 -- It sounds to me like everybody is sort of focusing on the
19 staff process to deal with their positions. The staff has
20 offered further screening analysis of features that have the
21 greater risk factor involved and will have to--help me out
22 here, Ms. Hough--will characterize what that risk is and what
23 perhaps the financial impact might be.

24 MS. HOUGH: There's going to be a discussion
25 technical area by technical area in light of existing laws.

1 We would anticipate identifying any specific features that
2 may be difficult to deal with. It's just like a warning for
3 both members of the public, for the applicant, for the
4 Commission, people who are eventually going to have to deal
5 with this at some point. If there's some specific feature of
6 the project that's likely to present a problem we intend to
7 identify that as part of our analysis.

8 We'll also be looking at the need for any financial
9 assurances for removal of toxic substances and hazardous
10 substances as well. And we'll end up proposing specific
11 conditions if necessary as well as a requirement that a
12 decommissioning plan be submitted 12 months prior to plant
13 shutdown. And you're correct, I'm sure that parties on all
14 sides will be taking shots at Staff's proposal.

15 COMMISSIONER SHARPLESS: Yes, Mr. Valkosky.

16 HEARING OFFICER VALKOSKY: Ms. Hough, you said
17 you're going to be looking at the need for financial
18 assurances for toxics removal. In your papers I got the
19 impression that you were only doing that insofar as
20 unexpected closures were concerned.

21 MR. EDWARDS: That's true.

22 HEARING OFFICER VALKOSKY: Okay. So why would you
23 not be doing it also under the plant life, analyzing the need
24 for financial assurances.

25 MR. EDWARDS: Well, that's actually a good

1 question. We are primarily interested because there is no
2 other look at abandonment or unexpected facility closure.
3 There is no other mitigation being offered or being looked at
4 other than financial assurance. But as you're indicating --

5 HEARING OFFICER VALKOSKY: Right, I'm not --

6 MR. EDWARDS: Right. The same holds true for the
7 end of the line.

8 HEARING OFFICER VALKOSKY: It does, exactly. It
9 would be the same problem whether it's an act of God or a
10 bankruptcy or 30 years expire. You've still got the same
11 liability to remove the toxics.

12 MR. EDWARDS: That's a very good point. Actually,
13 once this financial assurance is established it's not going
14 to go away until the cleanup has actually occurred at the end
15 of useful life. It doesn't mean it's only useful for an
16 expected shutdown. It's developed, it's in place or put in
17 -- It's established sometime -- as of yet undetermined time, I
18 think -- but certainly near certification. And it goes on
19 until the actual cleanup is completed, whether it be at the
20 end of useful life or at unexpected shutdown.

21 HEARING OFFICER VALKOSKY: Okay. So in other
22 words, the one financial assurance of whatever type you
23 recommend would cover both of the conceptual categories that
24 you raise? Okay, I wasn't clear on that. Okay.

25 COMMISSIONER SHARPLESS: Okay. The question I was

1 asking of the Hearing Officer was whether or not based on the
2 discussion, that we had enough closure on this issue that the
3 Committee -- It's not closed, obviously, because it will
4 depend on the further assessment but at least at this point
5 in time we have enough understanding that people feel
6 comfortable with the process and that the Committee doesn't
7 need to further deal with this through an issuance of an
8 Order. And Stan, perhaps you'd like to --

9 HEARING OFFICER VALKOSKY: Yes. Are there any --
10 We've heard Staff lay out the proposed analysis so are there
11 any parties that disagree with the scope and the nature of
12 Staff's analysis as it's been explained?

13 MR. JOSEPH: I think we'd be prepared to review the
14 PSA and if we feel it's deficient in one way or another then
15 we would propose supplementing that analysis in our
16 presentation.

17 HEARING OFFICER VALKOSKY: That would be
18 appropriate at that time. But right now preliminary to the
19 PSA for your purposes you're satisfied that Staff will be
20 proceeding acceptably?

21 COMMISSIONER SHARPLESS: As you understand it, I
22 guess.

23 MR. JOSEPH: Yes. It's a little uncertain as to
24 whether the focus would be exclusively on toxics or other
25 potential environmental impacts.

1 COMMISSIONER SHARPLESS: Then I think the Committee
2 should probably put an order together and make that clear.

3 MR. JOSEPH: Yes, it's a little uncertain as to
4 whether the focus would be exclusively on toxics or other
5 potential environmental impacts.

6 COMMISSIONER SHARPLESS: Then I think the Committee
7 should probably put an order together and make that clear.

8 MR. JOSEPH: The impact I have in mind is the
9 visual impact of an abandoned plant.

10 COMMISSIONER SHARPLESS: All right, okay. Given
11 that we'll try to memorialize what the Committee decides
12 needs to be done on this issue so that people are very clear.
13 Okay. I keep overlooking the fact that there is, I think,
14 public. Is there any public who would like come forward and
15 speak at this time? Not you, Jeff. Any other public?

16 MS. SHAPIRO: John.

17 COMMISSIONER SHARPLESS: John Grattan?

18 MS. SHAPIRO: Yes.

19 COMMISSIONER SHARPLESS: Mr. Grattan? No? Okay.

20 **PROJECT CONFIGURATION**

21 Well, then let's proceed to the Project
22 Configuration. Mr. Thompson, would you like to --

23 MR. THOMPSON: Yes.

24 COMMISSIONER SHARPLESS: -- lay out your position
25 on project configuration.

1 MR. THOMPSON: Again I think we and the staff are
2 pretty close together here. I believe that under the worst-
3 case analysis which we have been following all along from
4 prefiling through filing and the AFC the treatment of project
5 configurations has been analyzed by us using a worst-case
6 approach so the decision on which configuration to build will
7 result in lower environmental impacts than the worst-case.
8 We believe that that approach satisfies the various
9 requirements of CEQA as well as the Commission's
10 responsibility to inform the public of the options available
11 and have a basis for the Commission decision.

12 We do not have any quarrel with what I think is
13 Staff's proposal to have the Applicant come back to the
14 Commission in a post-decision time frame to tell the
15 Commission exactly which equipment we are going to be using
16 and what the final size would be. We actually think that
17 that's a good idea so that other parts of the Commission's
18 planning process and your technical folks can all have an
19 idea of what we have chosen and why. So we don't have any
20 quarrel with that recommendation of staff and we believe --
21 if I read it right. We believe that our recommendation and
22 the staff's recommendation I believe can be read to come to
23 the same conclusion.

24 Again, with regard to the unions, we're not in
25 agreement on too much there but we do believe that the

1 construction of a merchant facility, one that needs to be
2 attuned to the demands of the marketplace -- Rick Wolfinger
3 says constantly, the market is going to tell us what to
4 build, what size and whether simple cycle or combined cycle,
5 and that really is true. We have not seen the market work
6 yet but we want to be ready to provide the market with that
7 configuration that fits best within the market demand, the
8 market profile.

9 COMMISSIONER SHARPLESS: Okay, well, I read the
10 staff's comments a little bit differently than perhaps what
11 you were characterizing them as. Perhaps Staff would like to
12 present their position.

13 MS. HOUGH: I think this is one area where all
14 three of us who filed comments on this issue actually sort of
15 ended up in the same, reaching the same kinds of conclusions.
16 Staff is not conducting I think what the applicant refers to
17 as a worst-case analysis, we are looking at the three
18 configurations individually. And in many cases the analysis
19 and the results of the analysis will be the same because
20 specific technical areas aren't affected by differences in
21 the configurations. There are areas, however, where there
22 are significant differences and our analysis will reflect
23 that.

24 It's our hope that what we will be presenting the
25 Committee is an analysis upon which they could base findings

1 necessary to license any one of the three configurations that
2 are proposed by the applicant. I notice that although the
3 applicant refers to a worst-case analysis in their response
4 on, I think it's page nine, they note that while analyzing
5 only a single worst-case representative of the plant would be
6 allowable the better pathway would be to contemplate
7 alternative configurations in the Committee and Commission
8 decisions. That's what the staff is proposing to do.

9 Similarly, CURE notes that unless the Commission is
10 willing to issue three separate sets of findings, each of
11 which meets the requirements of CEQA, the Commission must
12 evaluate only one project configuration. What the staff is
13 hoping it will be do will be present the Commission an
14 analysis on which they can present three sets of findings.
15 So I think, as I said, that we're all ending up in the same
16 general place despite our different ways of getting there.

17 MR. JOSEPH: I think the staff's CEQA analysis is
18 precisely correct and we agree with it. The real issue
19 before the Commission on this in terms of CEQA is that the
20 Commission has the obligation to analyze each potential
21 impact for each configuration and has to make findings for
22 each significant impact for each configuration.

23 The problem comes in, and I think this distinction
24 is important: When the applicant says they are doing a
25 worst-case analysis they are not doing the worst-case impacts

1 for each configuration, which would be the correct way to do
2 it, but they're only presenting analysis of the impacts of
3 the worst-case configuration.

4 Let me give you an example. Staff Data Request 104
5 asked for the impact of cooling tower plumes on visibility
6 and aviation safety for all three configurations. The
7 applicant objected and said, we'll give you the data for the
8 worst-case configuration. The problem is, unless the staff
9 is going to do some independent work that is going to leave
10 you with no analysis of the impact of plumes on aviation
11 safety and visibility for the other two configurations. Now
12 maybe the staff is going to do that independent analysis and
13 fill in those gaps but those gaps have to be filled in if
14 you're going to proceed down three tracks simultaneously.

15 I think there are practical problems here in making
16 this document something which is not tremendously confusing.
17 There is no single worst-case configuration. For different
18 media different configurations are the worst-case. The
19 combined cycle case would use substantial amounts of water,
20 the single cycle case does not. One of the combined cycle
21 cases is the worst-case configuration in terms of water.

22 When you get to air the simple cycle configuration
23 is the worst-case in steady state air emissions impacts. But
24 even within air, one of the combined cycle configurations has
25 the worst-case start-up emissions and the simple cycle

1 configuration has the worst-case steady state emissions. So
2 even there it's not clear where the worst-case is and it will
3 be very difficult to put together a document which is not
4 confusing. Perhaps it can be done but it's not going to be
5 easy.

6 The biggest practical problem has to do, and we
7 have to go back to it, and that's the interconnection study.
8 Edison is doing an interconnection study of one project
9 output size. Only one. You're not going to know what the
10 interconnection impacts are of the other two configurations.
11 You have to know whether the other two configurations are
12 going to produce reliability or environmental impacts. And
13 the way it's set up now you're going to come back with an
14 answer, perhaps a correct answer, but only for one
15 configuration or one output size. It may not even be a
16 configuration. They may be using 800 megawatts, which is not
17 the size of any of the configurations.

18 It's not enough to know or even to believe that
19 other impacts will be less. You have to know for each
20 configuration whether there will be a significant impact and
21 how it can be mitigated. That's a problem which, you know,
22 we're hoping to address with an open iterative process. On
23 the transmission study that's one of the problems.

24 COMMISSIONER SHARPLESS: Doesn't the tariff and
25 transmission, the TCA I think is the initials, require that

1 if those protocols or those procedures are met they have to
2 be based on what the project would actually require on the
3 system? They can't just do a worst-case, can they?

4 MS. HOUGH: We had a discussion about this at a
5 workshop last fall and we indicated to both Edison and to the
6 ISO that we would need a determination or that the Commission
7 would need a determination for its decision that specifically
8 stated what the effects would be, if any, and identification
9 of the standards that would be applied and the result of the
10 application of those standards to each of the three
11 configurations within this Commission decision.

12 As Mr. Joseph points out, we don't know if that's
13 what we'll get or not but we have certainly made that clear
14 from the beginning, that we need to know what the system
15 reliability impacts might be from each of the three
16 configurations if the applicant is requesting approval of
17 each of those configurations.

18 COMMISSIONER SHARPLESS: Perhaps we can ask the
19 applicant.

20 MR. WELCH: Basically what I see you studying is
21 based on the output. The output when you're looking at pure
22 power flow basis, it doesn't matter what the plant on the
23 other side looks like. From the electrical standpoint a 700
24 megawatt nuclear power plant looks the same as a biomass
25 project, is the same as a combined cycle or simple cycle.

1 When it's running in a steady mode it's just output onto the
2 grid.

3 Where it comes up is stability analysis and
4 reliability. They are looking into the different
5 configurations and how it could make it because it really has
6 an impact on how many generators you actually have on line,
7 what's the likelihood of one tripping. And they're not
8 concerned about long term slow trips, we're talking about
9 something that could be within cycles of a second.

10 And they're taking all those into account for the
11 stability purposes and to just make sure that it can -- as we
12 say, what would be the worst-case. Which one of -- They're
13 looking at each one on an individual basis to determine which
14 one has the largest impact and then you run the rest of the
15 study based upon that. So they are taking all those things
16 in the configurations -- I think Mr. Joseph --

17 COMMISSIONER SHARPLESS: So when we see the scope
18 of the study we will see that it looks at the impacts of the
19 various configurations, the three that are currently in the
20 application, on the system.

21 MR. WELCH: Right. We provided them those
22 information, all that information to do the study with and
23 they're going to base it on that. Now they may not --
24 They're not necessarily going to run, you know, start to
25 finish a complete study that will show for combined cycle,

1 you know, the first combined cycle or the second type of
2 combined cycle we're looking at and the simple cycle. But
3 what they will do is they will look into each area where it
4 could impact and to take that into account on the individual
5 impact area, which is much like, you know --

6 And it kind of puzzles me because when we were
7 talking on the air side, the information Mr. Joseph had is
8 all what he got out of the application. Because we have
9 said, okay, the 2-G's has got more start-up emissions and the
10 simple cycle has got the most, you know, hourly basis but the
11 combined cycle has got the most for a year.

12 So we're taking -- And what we have done is we're
13 taking from these three configurations and we've actually
14 done a great deal of work in identifying each one of them and
15 where they are and then we've put that together to create
16 this worst-case. And the idea is you take each of the worst.
17 So it's not that we're providing, okay, here is the
18 information and we're not telling you where it comes from, we
19 provided all that.

20 COMMISSIONER SHARPLESS: Is it the worst-case of
21 each one of the configurations?

22 MR. WELCH: For each discipline and for each issue
23 we've looked at what is -- In other words, we haven't said
24 okay, the three combined cycle is going to be the worst-case
25 and we're only going to give you all the information based on

1 that. What we do is we say, okay, on water we're going to
2 give you the three combined cycle because in water that is
3 the one that uses the most water. Simple cycle barely uses
4 any at all. And the smaller combined cycle does in effect so
5 we said, okay, it's the 3-F here. But in other areas we're
6 giving other information or information on the other
7 turbines. So we haven't just simply said, here's the worst-
8 case so let us build anything that's not as bad as that.
9 We've given them backup data as to how we arrived at that
10 worst-case.

11 MR. THOMPSON: It's a composite worst-case.

12 COMMISSIONER SHARPLESS: Okay, let me ask Staff.
13 Staff, have you had any discussions about this and do you
14 feel comfortable with the approach that's being taken on the
15 transmission study?

16 MS. HOUGH: We don't know what approach is being
17 taken on the transmission study other than what we just heard
18 right here. Again, we've --

19 COMMISSIONER SHARPLESS: So you've had no
20 discussions.

21 MS. HOUGH: We had the discussion at the workshop
22 last fall. Maybe Rick would like to go into more detail.

23 COMMISSIONER SHARPLESS: But it was too early to
24 start talking about this level of detail?

25 MR. BUELL: At this level of detail at the

1 workshop. As I recall Edison raised a concern about which of
2 the three configurations the applicant wanted analyzed and we
3 trusted that Edison would design a study that would look at
4 the worst-case. And we were not sure that you couldn't do an
5 analysis, for example, that would look at the project with
6 the highest megawatt capacity and that wouldn't be sufficient
7 to identify the impacts on the system. So the approach that
8 is being --

9 MR. WELCH: Again, I'd like to say --

10 MR. BUELL: -- described sounds reasonable to us at
11 this point in time. I don't have my transmission line expert
12 in the room with me but it sounds rational.

13 COMMISSIONER SHARPLESS: I would like to know how
14 we can get this closer together so we have some level of
15 assurance that we're going to get enough information in this
16 transmission study that we can build a record from.

17 MR. BUELL: Let me ask a question. The study scope
18 that's being provided this Friday, will it address this
19 issue?

20 MR. WELCH: I believe so, yes. I mean, we've
21 talked that issue with them and told them that needed to be
22 included in the scope so it should be in the document.

23 MR. BUELL: That was one of staff's comments on the
24 scope, as I recall.

25 MR. WELCH: Right. For your information, basically

1 the staff's comments on the scope is largely what was used as
2 the outline for what the scope document that will be put out
3 by Edison is.

4 COMMISSIONER SHARPLESS: Has the ISO added anything
5 into that scope beyond what the staff has asked for?

6 MR. WELCH: Yes, and they've modified, I believe,
7 some things that the staff asked for as to how they thought
8 it would be more appropriately addressed.

9 MR. BUELL: What Staff would suggest is that having
10 received that study scope that we would comment to the
11 Committee and Applicant on whether or not we think it
12 addresses the need for the three configurations.

13 COMMISSIONER SHARPLESS: Given the fact that we're
14 really trying to get the ISO to respond by May 15th we have
15 sort of a short turnaround period. If in fact the scoping
16 study -- Now that Stan has it in his schedule we've allowed a
17 little flex time because Mr. Thompson can't live or die on
18 this coming Friday so it would be a week from this Friday.
19 What would be the turnaround time for the staff to deal with
20 this issue and let us know what next steps need to be taken?

21 MS. HOUGH: I would suggest that we could probably
22 respond to that within a week of receipt but I would also
23 like to point out that there's a critical element missing
24 here and that's, what is the ISO's response going to -- As a
25 result of the workshop and the discussions and the comments

1 that people have filed is what you're going to be getting
2 from them ultimately a decision that lets you make findings
3 on each of the three configurations? That's what we have
4 recommended and that's what we hope they will provide. We
5 can provide comments to you about whether or not we think the
6 study is going to get there but you are also going to at some
7 point need to find that out from the ISO.

8 COMMISSIONER SHARPLESS: Is there any reason that
9 would lead you to believe that the ISO would not be willing
10 to do that?

11 MS. HOUGH: None that I'm aware of.

12 COMMISSIONER SHARPLESS: Okay.

13 MR. WELCH: I think just to make clear. This
14 document that we're going to submit a week from today will
15 have the ISO's approval on it before Edison releases it.
16 It's not that Edison is going to release it and then we'll
17 get comments from the ISO. They've already talked to them
18 about it.

19 COMMISSIONER SHARPLESS: But if in fact it doesn't
20 do what we've been talking about and Staff has been talking
21 about then we need to go through that process and probably
22 need the ISO to be hooked back into it. All I was trying to
23 get to is whether the ISO in your estimation would have any
24 major problem with that. I don't know but probably not.

25 MR. WELCH: I can't imagine that they --

1 COMMISSIONER SHARPLESS: Because I would really
2 like to keep on track for May 15th if at all possible.

3 MR. WELCH: Right.

4 COMMISSIONER SHARPLESS: But I don't want to just
5 keep on track if at that point, if at that juncture we've got
6 a bigger problem.

7 MR. WELCH: It is the responsibility of Edison and
8 the ISO to communicate regularly on this as well as other
9 issues when it comes to transmission. The appearance of the
10 ISO here may have been unusual and our talking to them may be
11 the exception to their schedule but communicating with Edison
12 is a regular part of their day.

13 COMMISSIONER SHARPLESS: Okay. How can we plug in,
14 Stan, to the Committee, Staff's analysis of the scoping and
15 whether it's going to be adequate? Do you have any
16 suggestions?

17 MR. JOSEPH: I could make an suggestion on that.
18 We have March 25th as status reports to the Committee.
19 Perhaps part of the status report to the Committee should be
20 comments on the scope.

21 COMMISSIONER SHARPLESS: Scoping.

22 MS. HOUGH: That would be fine with Staff.

23 MR. WELCH: We're all fine with that.

24 COMMISSIONER SHARPLESS: Okay, all right. It's a
25 little further out than I was hoping for but we're already

1 into March 3rd. Okay, tentatively we'll consider that as a
2 possibility. Okay.

3 HEARING OFFICER VALKOSKY: I have a question for
4 Staff. You indicated that the worst-case as explained by the
5 applicant appears to suffice for the transmission issue; is
6 that correct?

7 MS. HOUGH: I think that what we -- I think that
8 what we said was we talked to the transmission staff and they
9 were under the impression that if you were to look at the
10 maximum output from the facility that that would also address
11 impacts caused both by the smaller baseload facility and the
12 peaking facility but they were not certain about that point.
13 That was their reaction to the suggestion but I'm not sure
14 you'd see testimony to that effect if you asked for it
15 tomorrow.

16 HEARING OFFICER VALKOSKY: Okay. But that is
17 something that you will be considering?

18 MS. HOUGH: Right.

19 HEARING OFFICER VALKOSKY: All right. Now, do you
20 have any other clarification as to how applicant's planned
21 worst-case would comport with your view insofar as other
22 disciplines are concerned?

23 MS. HOUGH: Well again, what we're proposing to do
24 is to provide you with an analysis for each technical area for
25 each configuration.

1 HEARING OFFICER VALKOSKY: Right.

2 MS. HOUGH: So while the applicant refers to worst-
3 case that's really not what Staff is doing.

4 HEARING OFFICER VALKOSKY: No, I understand what
5 you're proposing to do, but again I'm trying to get
6 information that's useful for all the parties and of course,
7 the Committee. In your view, is Applicant's desire to
8 proceed on its worst-case type of analysis in the other
9 disciplines going to be useful to Staff in assessing what
10 Applicant's position is or to the other parties, to the
11 Committee? Or are we going to end up, you know, come July or
12 August whenever we get into hearings with two bodies of
13 evidence which we can't really integrate very easily?

14 COMMISSIONER SHARPLESS: I understand what Stan is
15 saying. If you say that there's going to be an analysis on
16 three configurations in accordance with CEQA and the
17 applicant has said that rather than provide the analysis
18 based on the three configurations they are going to base
19 their analysis on the worst-case of each looking at each one
20 of these considerations. And there will be a worst-case in
21 each one of these configurations rather than --

22 MS. SHAPIRO: Worst-case for air, worst-case for
23 water.

24 COMMISSIONER SHARPLESS: Right. So then we would
25 have to aggregate or disaggregate or somehow plug in the

1 assumptions for each configuration. Isn't that sort of where
2 you were --

3 MS. HOUGH: We're getting all of our information to
4 do our analysis by and large from the applicant. You know,
5 even though the applicant has presented several worst-case in
6 several disciplines we have disaggregated the information, as
7 you say. So we have gotten the information that we are using
8 to present an analysis of each of the three configurations
9 from the AFC and from the data responses.

10 MS. SHAPIRO: Caryn, let me ask this. I know we're
11 jumping ahead a little bit but to data requests. Data
12 request you said, we want the plumes from each configuration.
13 Applicant sent back, we don't think we have to give that
14 because the worst-case is this one. If that held would that
15 give you the information you need? I think your answer is
16 no, that's why you've asked for all three.

17 MS. HOUGH: That's a bad example because the way
18 that data request has been characterized isn't very accurate.
19 But let's assume for purposes of discussion it's correct. I
20 agree with you that we would need to look at each
21 configuration. One is that the public does have a right to
22 know, the Commission has the right to know.

23 As I pointed out in our comments, it's hard to draw
24 a precise line about how specific the information has to be
25 that the Commission needs to make a decision. And once you

1 get past the area where you need specific information to make
2 mandatory findings it becomes a question of how much
3 information at your discretion you want to balance all the
4 various different factors that you balance when you make a
5 decision on a project.

6 But Staff was looking for specific information
7 about the effects of each specific configuration and in
8 virtually every instance we have obtained that information
9 from the applicant, either in the AFC or through data
10 responses. Although in some cases, as you point out we have
11 had to disaggregate the information. But it is available and
12 it will be part of the record.

13 COMMISSIONER SHARPLESS: Okay.

14 MR. THOMPSON: If I may. When we started this
15 process we actually thought it would be easier to do it on
16 our worst-case basis. I think we may have been wrong in
17 retrospect in doing that. We would never -- We would not
18 have guessed that the staff would be willing to look at all
19 three configurations and to do an environmental analysis on
20 all three configurations. At the time we thought we would be
21 imposing too much work on the staff so we -- Now that they've
22 imposed it on themselves we are more than willing to tailor
23 any responses we have to the PSA and FSA on the three
24 configuration basis.

25 I believe that the AFC in talking about a worst-

1 case by area approach still gives, you know, the casual
2 reader, the public, other agencies, a good idea of what the
3 project will look like and that it certainly won't have any
4 environmental issues greater than what are described in the
5 AFC. But if we tailor our responses to the way that the
6 staff is now going to be tailoring its PSA I suspect that
7 that would make it easier for the Committee.

8 HEARING OFFICER VALKOSKY: Yes, I suspect you're
9 right, and I assume you'd also be tailoring the testimony you
10 submit in relation to the three configurations. Because if
11 we go with Staff's approach that's what we're dealing with,
12 ultimately.

13 MR. THOMPSON: That's right.

14 HEARING OFFICER VALKOSKY: Yes, okay.

15 MS. HOUGH: If I could -- If I could just for a
16 second describe what I would expect to see in Staff's
17 testimony. For the majority of technical areas you're going
18 to see a single analysis and a single set of recommendations.
19 And that will be because the differences --

20 HEARING OFFICER VALKOSKY: Right, and a sentence
21 saying this is the same for all three configurations.

22 MS. HOUGH: Right.

23 HEARING OFFICER VALKOSKY: No, I understand that.

24 MS. HOUGH: And then in some technical areas there
25 will be differences. There will be a different analysis and

1 there will be different recommended mitigation measures. In
2 each instance, however, for each of the three configurations
3 we're comparing each one separately to alternatives for the
4 alternatives portion of the analysis.

5 HEARING OFFICER VALKOSKY: I understand that, okay.
6 Mr. Joseph, does that explanation allay any of the concerns
7 that you expressed?

8 MR. JOSEPH: Yes, it does if Staff is really
9 willing to do its work in triplicate.

10 HEARING OFFICER VALKOSKY: We're assuming they are
11 willing to do their work in triplicate; that the PSA will
12 essentially be three PSA's in one; and that the Committee
13 Decision may actually end up being three committee decisions
14 in one.

15 MR. JOSEPH: I think there's one other factor that
16 is worth pointing out and that is we have to remember that
17 it's the applicant that has the burden of presenting the
18 evidence for all three configurations.

19 HEARING OFFICER VALKOSKY: Absolutely.

20 MR. JOSEPH: And despite Staff's willingness to do
21 the work the burden remains on the Applicant.

22 HEARING OFFICER VALKOSKY: Absolutely. I guess our
23 problem is explaining it for the public, too.

24 MR. JOSEPH: Right. That's my remaining concern.
25 That it may be very difficult to pick up a single document

1 and figure out well, if they choose, you know, the 5-F
2 configuration, what are we talking about here in terms of
3 impacts.

4 HEARING OFFICER VALKOSKY: No, I understand and I
5 think that could be organizational. Conceptually you could
6 have parts A, B and C.

7 MR. JOSEPH: Right. Maybe it's a grand matrix, I
8 don't know.

9 COMMISSIONER LAURIE: Madam Chairman.

10 COMMISSIONER SHARPLESS: Commissioner Laurie.

11 COMMISSIONER LAURIE: I'm going to be pretty
12 demanding on this issue. When I walk into the courtroom with
13 this project I'm not going to have a judge sitting there
14 trying to figure out which project he is looking at. Staff
15 is not willing to do three analyses, they have to do three
16 analyses and I'm going to insist on it. Well, let me take
17 that back in light of the record. I would anticipate that it
18 might be a good idea to conduct three analyses.

19 And when it's presented I want it presented as
20 three different projects. When I walk this into the
21 courtroom I want the judge to know which document he's
22 looking at because I'm not going to have that judge confused.
23 And I'm not going to have our attorneys sitting in a
24 courtroom having the judge go back between documents because
25 that's a way to lose a case even though we were right on the

1 law and we were right on the facts. So I don't like the
2 position that we're in. In light of the position that we're
3 in, because we've acquiesced in it, I'm going to want to make
4 sure that what we are presented are three independent
5 projects recognizing that much of the work is duplicative.

6 COMMISSIONER SHARPLESS: Well, hopefully we won't
7 be in front of any judge but your point is well taken.

8 COMMISSIONER LAURIE: That's my standard.

9 COMMISSIONER SHARPLESS: Yes, no, I understand what
10 you're saying, Commissioner Laurie. I think what has just
11 occurred is that I heard Mr. Thompson for Applicant say that
12 they now understand the direction that the Committee and
13 Staff is going with the three configurations and is willing,
14 to CURE's point, to provide the data that will help analyze
15 those three configurations. Right, Mr. Thompson?

16 MR. THOMPSON: Yes. I actually think all the data
17 has been provided.

18 COMMISSIONER SHARPLESS: Fine, fine. But if it
19 isn't it will be, right? And that's the data. How it's
20 formatted I think will be an issue that Commissioner Laurie
21 and I and our Hearing Officer can talk about and perhaps give
22 guidance to Staff, since we can't talk to you except in this
23 forum, and give guidance to Staff about the format but
24 certainly being sensitive to -- Gosh, I hope we're not
25 setting a precedent so the next applicant comes in and has

1 eight configurations.

2 MR. THOMPSON: I'll try not to.

3 COMMISSIONER LAURIE: Perhaps the Siting Committee
4 can look at that issue, Madam Chairman.

5 MR. JOSEPH: Three strikes and you're out?

6 COMMISSIONER SHARPLESS: We're going to change the
7 name to Ex-Siting Committee. Okay. Are there any other
8 issues remaining on the Project Configuration that I have now
9 missed because I'm not tracking? Any other issues? Okay,
10 fine. I think we will probably have to come out with some
11 kind of explanation and we'll try to do that to clarify where
12 we all stand at this point.

13 **DATA REQUESTS**

14 That brings us down to Data Requests. In this
15 particular instance -- We've been talking around this issue
16 so have we already perhaps gone through some of the issues on
17 this item?

18 MS. HOUGH: Well, no. This issue has been
19 mischaracterized, including by myself.

20 COMMISSIONER SHARPLESS: What is this issue?

21 MS. HOUGH: The issue is not --

22 COMMISSIONER SHARPLESS: Before we understand it's
23 been mischaracterized.

24 MS. HOUGH: The issue is not what the plume is for
25 each of the three configurations, the issue is the plume for

1 the three different alternative cooling technologies, which
2 would apply to two of the configurations. In the two
3 combined cycle configurations there will be cooling towers,
4 at least as the applicant has proposed it.

5 The question is, what will the plume look like for
6 wet cooling, for wet/dry cooling and for dry cooling. And we
7 believe that we need that information to do our analysis
8 because we need to determine whether or not there are
9 environmental effects and if there are with the worst-case
10 then we look at potential mitigation measures which may
11 include either wet/dry cooling or dry cooling.

12 COMMISSIONER SHARPLESS: Okay. Applicant, do you
13 want to respond to that.

14 MR. THOMPSON: The first part is pretty easy, no
15 plume with the dry.

16 MS. HOUGH: Thank you.

17 MR. THOMPSON: Yes, let me turn it over to Andy. I
18 think we have some real difficulties trying to do a wet/dry
19 analysis.

20 MR. WELCH: What basically it comes down to is
21 these are alternatives to earlier data requests that asked us
22 to take a look at the wet/dry hybrid cooling and the dry and
23 we did analyses of that. Now they're coming back and asking
24 for us to do a plume study on that which is quite a costly
25 model to go through. We provided it for the wet, for the

1 traditional cooling tower.

2 And it's our position that because by the very
3 nature that a plume is created by water evaporating as it
4 goes through the cooling tower and then condensing again in
5 the atmosphere, since the wet/dry cooling tower is a hybrid
6 technology that will never use or never have a higher
7 evaporation rate of water than the wet. Which is why they
8 wanted us to take a look at that. The plume, therefore, is
9 going to be less significant than the plume from the wet
10 cooling tower. And I think it's --

11 We have made the contention that Staff has not said
12 anything to the contrary that the plume from the wet cooling
13 tower is not significant. Being we're in an atmosphere, it's
14 a desert atmosphere, it's very infrequent that the plume is
15 visible. We've taken a look at ground fogging and its
16 possible impacts on the airport and shown that there are
17 again insignificant impacts. So therefore the lesser plume,
18 the wet/dry hybrid which is going to have less of an impact
19 is not going to be something that's going to have any
20 significant impacts and therefore is not, we believe,
21 worthwhile for us to spend the great deal of money involved
22 with putting together a model on that.

23 COMMISSIONER SHARPLESS: So there's a hybrid
24 cooling tower that has the principle of operating sometimes
25 dry and sometimes wet?

1 MR. WELCH: Right. It involves -- Well, there are
2 different technologies, one of which is a wet -- it's got a
3 dry cooling tower inside with the ability to put a wet
4 cooling tower which is going to lower the temperature around
5 the dry fins.

6 COMMISSIONER SHARPLESS: What would you say if the
7 wet cooling tower needed mitigation and one of the
8 alternatives would be this hybrid wet/dry but no analysis had
9 really been done by the wet/dry other than, if wet does this
10 wet/dry does it less. Is that the --

11 MS. HOUGH: Right, that's part of our concerns.
12 The applicant may well have concluded that the plume with the
13 wet cooling is not a significant impact but Staff hasn't
14 reached that point yet. In the interest of understanding all
15 of the benefits and disadvantages of each of the
16 configurations, we know that plume is sometimes an issue. We
17 would like to know what the plume is from that alternative
18 configuration, from that alternative cooling technology for
19 those two configurations.

20 COMMISSIONER SHARPLESS: So it's a question of the
21 modeling expense as to why you take exception?

22 MR. WELCH: Yes, it's a question of modeling
23 expense to go along with the fact that we believe in the
24 previous answer we've demonstrated this technology is not
25 really cost-effective and not a technology that we would use

1 to build the project.

2 COMMISSIONER SHARPLESS: A wet/dry?

3 MR. WELCH: A wet/dry. We are saying that the way
4 that we would choose to build this project, the way it makes
5 the sense and the way that we can make it a cost-effective
6 plant is to build with a wet cooling tower. Therefore, to do
7 extra expense to look at what we consider to be a
8 hypothetical situation is not a necessary expense for us to
9 undertake as part of this permitting effort.

10 COMMISSIONER SHARPLESS: Well, the wet/dry -- I
11 guess you've come to the conclusion that it's infeasible but
12 I don't know that the staff has seen an analysis that brings
13 them to the same conclusion that it's infeasible. Is there
14 some other information base that if they were to provide you
15 information to determine it was infeasible would you still
16 have to evaluate it as an alternative?

17 MS. HOUGH: I think one of the things that we're
18 looking at, as you've heard discussions about today, is the
19 use of water by the project. And both wet/dry cooling and
20 dry cooling will reduce water usage. We would like to figure
21 out more precisely exactly what the impacts of water usage on
22 the facility are going to be. It could be that they are such
23 that Staff would recommend that wet/dry or dry cooling be
24 considered as a feasible mitigation measure for water
25 impacts. We don't know that yet but that's --

1 Part of the problem is that we need information to
2 do the analysis. We're very reluctant to push things off and
3 say that they are not going to be feasible or they are not
4 going to be considered as part of the process until we've
5 done the analysis. So we'd like to collect this information
6 in order to complete the analysis. An the water usage of the
7 project is one of the things that is going to have an effect
8 on wet/dry and dry and wet cooling.

9 COMMISSIONER SHARPLESS: You may be absolutely
10 right. What I'm trying to sort of search is to find out of
11 there's other options to answer those questions other than a
12 modeling option. Are there other options to answer these
13 questions other than model? Are we only looking at one side
14 of this prism where there's multi sides of the prism that
15 will resolve this issue?

16 MR. WELCH: I guess the difficulty from our
17 perspective with that question is that we've provided
18 information on how we think that we've put forth the argument
19 of which cooling technology is adequate. There are
20 outstanding -- We have nine other data requests pertaining to
21 this technology which we're planning to answer. This one has
22 a great deal of expense. We don't know what is going to be a
23 sufficient answer to this.

24 I mean, we can in a qualitative sense do the
25 description that I gave to you earlier, that it's going to be

1 a lesser plume created than a wet cooling tower just by the
2 very nature, there's less water involved. And since we don't
3 think that the wet cooling tower which we've already done a
4 program on and quantified the plume impacts and the fog
5 impact is not significant. It would be difficult for us to
6 be able to demonstrate, well, you know, what is less
7 significant but non-significant and what benefit is there to
8 be gained by evaluating that. I'm not sure that we know what
9 the threshold they're looking at is.

10 COMMISSIONER SHARPLESS: What I'm getting to with
11 the staff is the issue of feasibility. If in fact this is
12 infeasible is this an alternative that we should be looking
13 at?

14 MS. HOUGH: Staff has not yet concluded that this
15 is an infeasible --

16 COMMISSIONER SHARPLESS: Exactly, I understand that.

17 MR. BUELL: Let me, let me --

18 COMMISSIONER SHARPLESS: So what I was asking the
19 applicant is, you're looking at it from the perspective of
20 the wet cooling tower and if there's less water used it will
21 have a lesser impact. But it will be -- Not just the
22 modeling study is expensive but this type of technology would
23 be infeasible, commercially infeasible. Is that what your --

24 MR. WELCH: Right, that's the information that
25

1 we've provided to the staff previously.

2 COMMISSIONER SHARPLESS: So they have the
3 information that it's commercially infeasible but still,
4 notwithstanding that -- They don't have that information.

5 MR. BUELL: Staff does not have -- Let me explain
6 that as Andy had indicated earlier we had asked earlier data
7 requests on this and the applicant responded. We had asked
8 Data Request 95 through 105 asking for follow-up information
9 on the alternative cooling technologies. Those questions are
10 going to answer the issue of whether or not this technology
11 is both technically and economically feasible. Under CEQA we
12 are to evaluate both of those to determine whether or not
13 this is a viable mitigation measure. We have not reached a
14 conclusion that this is an infeasible technology based upon
15 the information that's been provided by the applicant to
16 date.

17 COMMISSIONER SHARPLESS: What more information do
18 you need?

19 MR. BUELL: The information in data responses --
20 our Data Requests 95 through 105.

21 COMMISSIONER SHARPLESS: So it's more than just
22 104?

23 MR. WELCH: What we're suggesting is that we submit
24 95 through 104 excluding -- excuse me, through 105, excluding
25 104, will be sufficient for them to reach a conclusion.

1 COMMISSIONER SHARPLESS: CURE.

2 MR. JOSEPH: I just want to raise two issues. I
3 think we were the ones who first raised the issue of dry
4 cooling back in the data adequacy phase of this project.
5 This is an important issue to consider under CEQA, it's also
6 driven by State Water Resources Control Board Resolution 7558
7 which requires the analysis of dry cooling, specifically
8 requires it as a State policy.

9 That said, I think it would be premature to make
10 any conclusion about the feasibility of this simply based on
11 the applicant's analysis. I would note for the Committee
12 that dry cooling was recently installed and is now operating
13 at the Crockett cogeneration plant so this is not some pie-
14 in-the-sky thing. This is on the ground, being used in
15 California right now, in a recently built plant.

16 COMMISSIONER SHARPLESS: So there's dry cooling,
17 wet cooling and dry/wet cooling?

18 MR. WELCH: Right.

19 MS. HOUGH: Wet/dry cooling.

20 MR. WELCH: Wet/dry.

21 COMMISSIONER SHARPLESS: Wet/dry. And the Crockett
22 technology is wet/dry or just dry?

23 MR. JOSEPH: My understanding is that it's dry.

24 MR. WELCH: It's a completely different --

25 COMMISSIONER SHARPLESS: But this is a hybrid which

1 is wet/dry. Does that make a difference?

2 MR. WELCH: Yes. It's got additional costs.

3 COMMISSIONER SHARPLESS: So it's not a question of
4 whether it's wet or whether it's dry, this is wet/dry/wet.
5 Or whatever, wet/dry.

6 MS. HOUGH: Right. We have the answer for -- or
7 we're going to get the answer for wet cooling, that's not a
8 problem and the applicant has told us there is no plume with
9 dry cooling. So the question is, what does the plume look
10 like if you use wet/dry cooling technology?

11 COMMISSIONER SHARPLESS: The Water Board doesn't
12 require that analysis.

13 MS. HOUGH: The Water Board requires you to
14 consider I believe it's both wet/dry and dry cooling
15 technologies as part of your decision-making process.

16 COMMISSIONER SHARPLESS: Well, if that's the case
17 then do we have any option?

18 MS. HOUGH: It doesn't specify what you have to do
19 with the, what you have to use as a basis for consideration
20 of visual impacts that may be associated with it. This
21 question goes to the what the visual impacts of the plume
22 would be.

23 MR. BUELL: In evaluating the feasibility of this
24 alternative technology we are also looking at how it would
25 effect other aspects of the project including visual impacts.

1 Visible plumes from the cooling tower and whether or not that
2 is either a detriment or a benefit from using that
3 technology.

4 COMMISSIONER SHARPLESS: You know, I'm sitting here
5 listening to this and I'm not sure the Committee has an
6 adequate grounding to make a decision. This is a maze.
7 That's two words, not one.

8 MS. HOUGH: That's why we were so impressed that
9 you wanted to take it up today.

10 COMMISSIONER SHARPLESS: Well, I don't know what
11 our options are. If we don't take it up today when do we
12 take it up. I'd like to have some kind of sensible, logical
13 way to follow through this, you know. Water Board requires
14 X, Y, Z, but in this case it might not apply because it's a
15 visual thing. Applicant says we get 95 through 105 minus 4,
16 that will take care of our needs. I'd like to see how these
17 pieces fit together and what our options are. I'm faced
18 with, like, no options here.

19 MS. HOUGH: The normal processes we'd follow would
20 be staff would -- after we receive a response that says,
21 we're not going to provide information to you, we have to
22 make a decision about whether or not we want to take that to
23 the Committee and file a motion to compel the information.

24 COMMISSIONER SHARPLESS: Okay.

25 MS. HOUGH: We will be making a decision on that.

1 We haven't done that yet but we will be making a decision
2 about whether or not to do that. If we do decide that that's
3 the appropriate course of action we would be filing a motion
4 with you that would contain supporting documentation and
5 discussion.

6 COMMISSIONER SHARPLESS: And when would that come
7 up, March 25th?

8 MS. HOUGH: Well, I think we would file the motion
9 before then. It could be argued and presumably you could ask
10 more questions or you could have refined some of your
11 questions at that point and you could conduct an oral
12 argument on that and make a decision at that time.

13 COMMISSIONER SHARPLESS: Okay. Because we're not
14 going to resolve it today, obviously. We don't have enough
15 information and grounding on the subject to make a wise
16 decision. So we'll let Staff do that, look at the
17 information they get. If they want to petition to get the
18 other part of the information they can come to the Committee,
19 we can have that discussion on March 25th. Okay?

20 MS. HOUGH: That's fine.

21 COMMISSIONER SHARPLESS: Okay. So that's, I think
22 the only one that the applicant had. And then I believe --

23 MS. HOUGH: The staff had.

24 COMMISSIONER SHARPLESS: I mean the staff had. And
25 then I believe you indicated earlier that you did not

1 necessarily want to bring up today these data adequacy
2 issues?

3 MR. JOSEPH: Mr. Valkosky can confirm that it's not
4 merely a matter of exhaustion but a decision I made yesterday
5 that I was prepared to wait until we got the responses to the
6 other data requests which will be forthcoming March 11th
7 before we either bring or don't bring a motion to compel
8 before you.

9 COMMISSIONER SHARPLESS: Okay. And the applicant
10 has nothing to add?

11 MR. WELCH: We're on the record

12 COMMISSIONER SHARPLESS: Okay, okay. So that
13 actually brings us to the closing, which is to offer the
14 public -- John, you're the only one here. Don't you just want
15 to come up and --

16 MR. GRATTAN: I'm not really public.

17 COMMISSIONER SHARPLESS: -- say you find this all
18 so interesting.

19 MR. GRATTAN: I'm just ears today.

20 COMMISSIONER SHARPLESS: Ears, okay. The rest of
21 it is CEC staff. So I think we've come to the closing of
22 today's conference and I want to thank the participants for
23 the very valuable discussion. If we went to the Committee
24 and as we worked through these issues I don't think I'd do it
25 with the same degree of professionalism and humor. I think

1 that we -- Stan, is it correct we will be issuing some
2 clarifying --

3 We will issue an Order on the petition for Calpine
4 Corporation. We'll issue a revised schedule, and after that
5 we'll probably -- probably after that will be another
6 Committee Order that gives more substance to the discussion
7 here and lends some clarification. So having said that, I
8 think that's it unless anybody else has anything more to say.

9 MS. SHAPIRO: John is gone.

10 COMMISSIONER SHARPLESS: John is gone. Okay, well,
11 thank you very much, we are adjourned.

12 (Thereupon the conference
13 concluded at 3:20 p.m.)

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)	
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